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THE

# CRIMINAL CODE, 1892

55-56 VICTORIA, CHAP. 29

TOGETHER WITH

AN ACT TO AMEND THE CANADA TEMPERANCE AMENDMENT ACT, 1888  
BEING CHAPTER 26 OF THE SAME SESSION

and Appendix: 1893-1895



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# The Criminal Code, 1892.

[55-56 VICT., c. 29.]

## ARRANGEMENT OF TITLES.

### TITLE I. Introductory provisions.

- II. Offences against public order, internal and external.
- III. Offences affecting the administration of law and justice.
- IV. Offences against religion, morals and public convenience.
- V. Offences against the person and reputation.
- VI. Offences against rights of property and rights arising out of contracts, and offences connected with trade.
- VII. Procedure.
- VIII. Proceedings after conviction.
- IX. Actions against persons administering the criminal law.
- X. Repeal, &c.

### SCHEDULE 1. Forms.

- 2. Table of Acts repealed.

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## 55-56 VICTORIA.

### CHAP. 29.

#### An Act respecting the Criminal Law.

[Assented to 9th July, 1892.]

**H**ER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

#### TITLE I.

#### INTRODUCTORY PROVISIONS.

##### PART I.

##### PRELIMINARY.

**1.** This Act may be cited for all purposes as *The Criminal Statute Code, 1892*.

**2.** This Act shall come into force on the first day of July, 1893.

**3.** In this Act the following expressions have the meanings assigned to them in this section unless the context requires otherwise :

(a.) The expression “any Act,” or “any other Act,” includes any Act passed or to be passed by the Parliament of Canada, or any Act passed by the legislature of the late province of Canada, or passed or to be passed by the legislature of any province of Canada, or passed by the legislature of any province included in Canada before it was included therein ; R.S.C., c. 174, s. 2 (a).

(b.) The expression “Attorney-General” means the Attorney-General or Solicitor-General of any province in Canada in which any proceedings are taken under this Act, and, with respect to the North-west Territories and the district of Keewatin, the Attorney-General of Canada ; R.S.C., c. 150, s. 2 (a).

(c.)

(c.) The expression "banker" includes any director of any incorporated bank or banking company; R.S.C., c. 164, s. 2 (g).

(d.) The expression "cattle," includes any horse, mule, ass, swine, sheep or goat, as well as any neat cattle or animal of the bovine species, and by whatever technical or familiar name known, and shall apply to one animal as well as to many; R.S.C., c. 172, s. 1.

(e.) The expression "Court of Appeal" includes the following courts: R.S.C., c. 174, s. 2 (h).

(i.) In the province of Ontario, any division of the High Court of Justice;

(ii.) In the province of Quebec, the Court of Queen's Bench, appeal side;

(iii.) In the provinces of Nova Scotia, New Brunswick and British Columbia, and in the North-west Territories, the Supreme Court in banc;

(iv.) In the province of Prince Edward Island, the Supreme Court of Judicature;

(v.) In the province of Manitoba, the Court of Queen's Bench;

(f.) The expression "district, county or place" includes any division of any province of Canada for purposes relative to the administration of justice in criminal cases; R.S.C., c. 174, s. 2 (f).

(g.) The expression "document of title to goods" includes any bill of lading, India warrant, dock warrant, warehouse-keeper's certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought and sold note, or any other document used in the ordinary course of business as proof of the possession or control of goods, authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to; R.S.C., c. 164, s. 2 (a).

(h.) The expression "document of title to lands" includes any deed, map, paper or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or any part of the title, to any real property, or to any interest in any real property, or any notarial or registrar's copy thereof, or any duplicate instrument, memorial, certificate or document authorized or required by any law in force in any part of Canada respecting registration of titles, and relating to such title; R.S.C., c. 164, s. 2 (b).

(i.) The expression "explosive substance" includes any materials for making an explosive substance; also any apparatus, machine, implement, or materials used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; and also any part of any such apparatus, machine or implement; R.S.C., c. 150, s. 2 (b).

(j.)

(j.) Finding the indictment includes also exhibiting an information and making a presentment; R.S.C., c. 174, s. 2 (d).

(k.) Having in one's possession, includes not only having in one's own personal possession, but also knowingly—

(i.) having in the actual possession or custody of any other person; and

(ii.) having in any place (whether belonging to or occupied by one's self or not) for the use or benefit of one's self or of any other person; R.S.C., c. 164, s. 2 (l); c. 165, s. 2; c. 167, s. 2; c. 171, s. 3; 50-51 V., c. 45, s. 2 (e).

If there are two or more persons, any one or more of whom, with the knowledge and consent of the rest, have any such thing in his or their custody or possession, it shall be deemed and taken to be in the custody and possession of each and all of them;

(l.) The expressions "indictment" and "count" respectively include information and presentment as well as indictment, and also any plea, replication or other pleading, and any record; R.S.C., c. 174, s. 2 (c).

(m.) The expression "intoxicating liquor" means and includes any alcoholic, spirituous, vinous, fermented or other intoxicating liquor, or any mixed liquor a part of which is spirituous or vinous, fermented or otherwise intoxicating; R.S.C., c. 151, s. 1 (d).

(n.) The expression "justice" means a justice of the peace, and includes two or more justices, if two or more justices act or have jurisdiction, and also any person having the power or authority of two or more justices of the peace; R.S.C., c. 174, s. 2 (b).

(o.) The expression "loaded arms" includes any gun, pistol or other arm loaded with gunpowder, or other explosive substance, and ball, shot, slug or other destructive material, or charged with compressed air and ball, shot, slug or other destructive material;

(o-1.) The expression "military law" includes *The Militia Act* and any orders, rules and regulations made thereunder, the Queen's Regulations and Orders for the Army; any Act of the United Kingdom or other law applying to Her Majesty's troops in Canada, and all other orders, rules and regulations of whatever nature or kind soever to which Her Majesty's troops in Canada are subject;

(p.) The expression "municipality" includes the corporation of any city, town, village, county, township, parish or other territorial or local division of any province of Canada, the inhabitants whereof are incorporated or have the right of holding property for any purpose; R.S.C., c. 164, s. 2 (j).

(p-1.) In the sections of this Act relating to defamatory libel the word "newspaper" shall mean any paper, magazine or periodical containing public news, intelligence or occurrences, or any remarks or observations thereon, printed for

for sale and published periodically, or in parts or numbers, at intervals not exceeding thirty-one days between the publication of any two such papers, parts or numbers, and also any paper, magazine or periodical printed in order to be dispersed and made public, weekly or oftener, or at intervals not exceeding thirty-one days, and containing only or principally advertisements ;

(*q.*) The expression "night" or "night time" means the interval between nine o'clock in the afternoon and six o'clock in the forenoon of the following day, and the expression "day" or "day time" includes the interval between six o'clock in the forenoon and nine o'clock in the afternoon of the same day ;

(*r.*) The expression "offensive weapon" includes any gun or other firearm, or air-gun, or any part thereof, or any sword, sword blade, bayonet, pike, pike-head, spear, spear-head, dirk, dagger, knife, or other instrument intended for cutting or stabbing, or any metal knuckles, or other deadly or dangerous weapon, and any instrument or thing intended to be used as a weapon, and all ammunition which may be used with or for any weapon ; R.S.C., c. 151, s. 1 (*c*).

(*s.*) The expression "peace officer" includes a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer, and justice of the peace, and also the warden, keeper or guard of a penitentiary and the gaoler or keeper of any prison, and any police officer, police constable, bailiff, constable or other person employed for the preservation and maintenance of the public peace, or for the service or execution of civil process ;

(*t.*) The expressions "person," "owner," and other expressions of the same kind include Her Majesty and all public bodies, bodies corporate, societies, companies, and inhabitants of counties, parishes, municipalities or other districts in relation to such acts and things as they are capable of, doing and owning respectively ;

(*u.*) The expression "prison" includes any penitentiary, common gaol, public or reformatory prison, lock-up, guard room or other place in which persons charged with the commission of offences are usually kept or detained in custody ;

(*v.*) The expression "property" includes : R.S.C., c. 164, s. 2 (*e*).

(i.) every kind of real and personal property, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods ;

(ii.) not only such property as was originally in the possession or under the control of any person, but also any property into or for which the same has been converted or exchanged and anything acquired by such conversion or exchange, whether immediately or otherwise ;



(iii.) any postal card, postage stamp or other stamp issued or prepared for issue by the authority of the Parliament of Canada, or of the legislature of any province of Canada, for the payment to the Crown or any corporate body of any fee, rate or duty, and whether still in the possession of the Crown or of any person or corporation; and such postal card or stamp shall be held to be a chattel, and to be equal in value to the amount of the postage, rate or duty expressed on its face in words or figures or both;

(w.) The expression "public officer" includes any inland revenue or customs officer, officer of the army, navy, marine, militia, North-west mounted police, or other officer engaged in enforcing the laws relating to the revenue, customs, trade or navigation of Canada;

(x.) The expression "shipwrecked person" includes any person belonging to, on board of or having quitted any vessel wrecked, stranded, or in distress at any place in Canada; R.S.C., c. 81, s. 2 (h).

(y.) The expression "Superior Court of Criminal Jurisdiction" means and includes the following courts:

(i.) In the province of Ontario, the three divisions of the High Court of Justice;

(ii.) In the province of Quebec, the Court of Queen's Bench;

(iii.) In the provinces of Nova Scotia, New Brunswick and British Columbia, and in the North-west Territories, the Supreme Court;

(iv.) In the province of Prince Edward Island, the Supreme Court of Judicature;

(v.) In the province of Manitoba, the Court of Queen's Bench (Crown side);

(z.) The expression "territorial division" includes any county, union of counties, township, city, town, parish or other judicial division or place to which the context applies; R.S.C., c. 174, s. 2 (g).

(aa.) The expression "testamentary instrument" includes any will, codicil, or other testamentary writing or appointment, as well during the life of the testator whose testamentary disposition it purports to be as after his death, whether the same relates to real or personal property, or both; R.S.C., c. 164, s. 2 (i).

(bb.) The expression "trustee" means a trustee on some express trust created by some deed, will or instrument in writing, or by parol, or otherwise, and includes the heir or personal representative of any such trustee, and every other person upon or to whom the duty of such trust has devolved or come, whether by appointment of a court or otherwise, and also an executor and administrator, and an official manager, assignee, liquidator or other like officer acting under any Act relating to joint stock companies, bankruptcy or insolvency, and any person who is, by the law of the province of Quebec, an "*administrateur*" or "*fidéicommissaire*"; and the expres-

sion "trust" includes whatever is by that law an "*administration*" or "*fidéicommission*"; R.S.C., c. 164, s. 2 (c).

(cc.) The expression "valuable security" includes any order, exchequer acquittance or other security entitling or evidencing the title of any person to any share or interest in any public stock or fund, whether of Canada or of any province thereof, or of the United Kingdom, or of Great Britain or Ireland, or any British colony or possession, or of any foreign state, or in any fund of any body corporate, company or society, whether within Canada or the United Kingdom, or any British colony or possession, or in any foreign state or country, or to any deposit in any savings bank or other bank, and also includes any debenture, deed bond, bill, note, warrant, order or other security for money or for payment of money, whether of Canada or of any province thereof, or of the United Kingdom or of any British colony or possession, or of any foreign state, and any document of title to lands or goods as hereinbefore defined where-soever such lands or goods are situate, and any stamp or writing which secures or evidences title to or interest in any chattel personal, or any release, receipt, discharge or other instrument, evidencing payment of money, or the delivery of any chattel personal; and every such valuable security shall, where value is material, be deemed to be of value equal to that of such unsatisfied money, chattel personal, share, interest or deposit, for the securing or payment of which, or delivery or transfer or sale of which, or for the entitling or evidencing title to which, such valuable security is applicable, or to that of such money or chattel personal, the payment or delivery of which is evidenced by such valuable security; 53 V., c. 37, s. 20.

(dd.) The expression "wreck" includes the cargo, stores and tackle of any vessel and all parts of a vessel separated therefrom, and also the property of shipwrecked persons;

(ee.) The expression "writing" includes any mode in which, and any material on which, words or figures whether at length or abridged are written, printed or otherwise expressed, or any map or plan is inscribed.

Meaning of  
expressions in  
other Acts  
retained.

4. The expressions "mail," "mailable matter," "post letter," "post letter bag," and "post office" when used in this Act have the meanings assigned to them in *The Post Office Act*, and in every case in which the offence dealt with in this Act relates to the subject treated of in any other Act the words and expressions used herein in respect to such offence shall have the meaning assigned to them in such other Act.

Offences  
against  
statutes of  
England,

5. No person shall be proceeded against for any offence against any Act of the Parliament of England, of Great Britain, or of the United Kingdom of Great Britain and Ireland,

Ireland, unless such Act is, by the express terms thereof, or of some other Act of such Parliament, made applicable to Canada or some portion thereof as part of Her Majesty's dominions or possessions.

Great Britain,  
or the United  
Kingdom.

**6.** Every one who commits an offence against this Act is liable as herein provided to one or more of the following punishments :—

Consequences  
of committing  
offence.

- (a.) Death ;
- (b.) Imprisonment ;
- (c.) Whipping ;
- (d.) Fine ;
- (e.) Finding sureties for future good behaviour ;
- (f.) If holding office under the Crown, to be removed therefrom ;
- (g.) To forfeit any pension or superannuation allowance ;
- (h.) To be disqualified from holding office, from sitting in Parliament and from exercising any franchise ;
- (i.) To pay costs ;
- (j.) To indemnify any person suffering loss of property by commission of his offence.

## PART II.

### MATTERS OF JUSTIFICATION OR EXCUSE.

**7.** All rules and principles of the common law which render any circumstances a justification or excuse for any act, or a defence to any charge, shall remain in force and be applicable to any defence to a charge under this Act except in so far as they are hereby altered or are inconsistent herewith.

General rule  
under com-  
mon law.

**8.** The matters provided for in this part are hereby declared and enacted to be justifications or excuses in the case of all charges to which they apply.

General rule  
under this  
Act.

**9.** No person shall be convicted of an offence by reason of any act or omission of such person when under the age of seven years.

Children  
under seven.

**10.** No person shall be convicted of an offence by reason of an act or omission of such person when of the age of seven, but under the age of fourteen years, unless he was competent to know the nature and consequences of his conduct, and to appreciate that it was wrong.

Children  
between seven  
and fourteen.

**11.** No person shall be convicted of an offence by reason of an act done or omitted by him when labouring under natural

Insanity.



natural imbecility, or disease of the mind, to such an extent as to render him incapable of appreciating the nature and quality of the act or omission, and of knowing that such act or omission was wrong.

2. A person labouring under specific delusions, but in other respects sane, shall not be acquitted on the ground of insanity, under the provisions hereinafter contained, unless the delusions caused him to believe in the existence of some state of things which, if it existed, would justify or excuse his act or omission.

3. Every one shall be presumed to be sane at the time of doing or omitting to do any act until the contrary is proved.

Compulsion  
by threats.

**12.** Except as hereinafter provided, compulsion by threats of immediate death or grievous bodily harm from a person actually present at the commission of the offence shall be an excuse for the commission, by a person subject to such threats, and who believes such threats will be executed, and who is not a party to any association or conspiracy the being a party to which rendered him subject to compulsion, of any offence other than treason as defined in paragraphs *a, b, c, d* and *e* of subsection one of section sixty-five, murder, piracy, offences deemed to be piracy, attempting to murder, assisting in rape, forcible abduction, robbery, causing grievous bodily harm, and arson.

Compulsion  
of wife.

**13.** No presumption shall be made that a married woman committing an offence does so under compulsion because she commits it in the presence of her husband.

Ignorance of  
the law.

**14.** The fact that an offender is ignorant of the law is not an excuse for any offence committed by him.

Execution of  
sentence.

**15.** Every ministerial officer of any court authorized to execute a lawful sentence, and every gaoler, and every person lawfully assisting such ministerial officer or gaoler, is justified in executing such sentence.

Execution of  
process.

**16.** Every ministerial officer of any court duly authorized to execute any lawful process of such court, whether of a civil or criminal nature, and every person lawfully assisting him, is justified in executing the same; and every gaoler who is required under such process to receive and detain any person is justified in receiving and detaining him.

Execution of  
warrants.

**17.** Every one duly authorized to execute a lawful warrant issued by any court or justice of the peace or other person having jurisdiction to issue such warrant, and every person lawfully assisting him, is justified in executing such warrant; and every gaoler who is required under such warrant to receive and detain any person is justified in receiving and retaining him.



**18.** If a sentence is passed or process issued by a court having jurisdiction under any circumstances to pass such a sentence or issue such process, or if a warrant is issued by a court or person having jurisdiction under any circumstances to issue such a warrant, the sentence passed or process or warrant issued shall be sufficient to justify the officer or person authorized to execute the same, and every gaoler and person lawfully assisting in executing or carrying out such sentence, process or warrant, although the court passing the sentence or issuing the process had not in the particular case authority to pass the sentence or to issue the process, or although the court, justice or other person in the particular case had no jurisdiction to issue, or exceeded its or his jurisdiction in issuing, the warrant, or was, at the time when such sentence was passed or process or warrant issued, out of the district in or for which such court, justice or person was entitled to act.

Execution of  
erroneous  
sentence or  
process.

**19.** Every officer, gaoler or person executing any sentence, process or warrant, and every person lawfully assisting such officer, gaoler or person, shall be protected from criminal responsibility if he acts in good faith under the belief that the sentence or process was that of a court having jurisdiction or that the warrant was that of a court, justice of the peace or other person having authority to issue warrants, and if it be proved that the person passing the sentence or issuing the process acted as such a court under colour of having some appointment or commission lawfully authorizing him to act as such a court, or that the person issuing the warrant acted as a justice of the peace or other person having such authority, although in fact such appointment or commission did not exist or had expired, or although in fact the court or the person passing the sentence or issuing the process was not the court or the person authorized by the commission to act, or the person issuing the warrant was not duly authorized so to act.

Sentence or  
process  
without juris-  
diction.

**20.** Every one duly authorized to execute a warrant to arrest who thereupon arrests a person, believing in good faith and on reasonable and probable grounds that he is the person named in the warrant, shall be protected from criminal responsibility to the same extent and subject to the same provision as if the person arrested had been the person named in the warrant.

Arresting the  
wrong person.

2. Every one called on to assist the person making such arrest, and believing that the person in whose arrest he is called on to assist is the person for whose arrest the warrant is issued, and every gaoler who is required to receive and detain such person, shall be protected to the same extent and subject to the same provisions as if the arrested person had been the person named in the warrant.

Irregular  
warrant or  
process.

**21.** Every one acting under a warrant or process which is bad in law on account of some defect in substance or in form apparent on the face of it, if he in good faith and without culpable ignorance and negligence believes that the warrant or process is good in law, shall be protected from criminal responsibility to the same extent and subject to the same provisions as if the warrant or process were good in law, and ignorance of the law shall in such case be an excuse: Provided, that it shall be a question of law whether the facts of which there is evidence may or may not constitute culpable ignorance or negligence in his so believing the warrant or process to be good in law.

Arrest by  
peace officer  
in case of  
certain  
offences.

**22.** Every peace officer who, on reasonable and probable grounds, believes that an offence for which the offender may be arrested without warrant has been committed, whether it has been committed or not, and who, on reasonable and probable grounds, believes that any person has committed that offence, is justified in arresting such person without warrant, whether such person is guilty or not.

Persons assist-  
ing peace  
officer.

**23.** Every one called upon to assist a peace officer in the arrest of a person suspected of having committed such offence as last aforesaid is justified in assisting, if he knows that the person calling on him for assistance is a peace officer, and does not know that there is no reasonable grounds for the suspicion.

Arrest of per-  
sons found  
committing  
certain  
offences.

**24.** Every one is justified in arresting without warrant any person whom he finds committing any offence for which the offender may be arrested without warrant, or may be arrested when found committing.

Arrest after  
commission of  
certain  
offences.

**25.** If any offence for which the offender may be arrested without warrant has been committed any one who, on reasonable and probable grounds, believes that any person is guilty of that offence is justified in arresting him without warrant, whether such person is guilty or not.

Arrest of per-  
son believed  
to be com-  
mitting cer-  
tain offences  
by night.

**26.** Every one is protected from criminal responsibility for arresting without warrant any person whom he, on reasonable and probable grounds, believes he finds committing by night any offence for which the offender may be arrested without warrant.

Arrest by  
peace officer  
of person  
found com-  
mitting  
offence.

**27.** Every peace officer is justified in arresting without warrant any person whom he finds committing any offence.

Arrest of  
person found  
committing  
any offence at  
night.

**28.** Every one is justified in arresting without warrant any person whom he finds by night committing any offence.

**2.** Every peace officer is justified in arresting without warrant any person whom he finds lying or loitering in any

any highway, yard or other place by night, and whom he has good cause to suspect of having committed or being about to commit any offence for which an offender may be arrested without warrant.

**29.** Every one is protected from criminal responsibility for arresting without warrant any person whom he, on reasonable and probable grounds, believes to have committed an offence and to be escaping from and to be freshly pursued by those whom he, on reasonable and probable grounds, believes to have lawful authority to arrest that person for such offence. Arrest during flight.

**30.** Nothing in this Act shall take away or diminish any authority given by any Act in force for the time being to arrest, detain or put any restraint on any person. Statutory power of arrest.

**31.** Every one justified or protected from criminal responsibility in executing any sentence, warrant or process, or in making any arrest, and every one lawfully assisting him, is justified, or protected from criminal responsibility, as the case may be, in using such force as may be necessary to overcome any force used in resisting such execution or arrest, unless the sentence, process or warrant can be executed or the arrest effected by reasonable means in a less violent manner. Force used in executing sentence or process or in arrest.

**32.** It is the duty of every one executing any process or warrant to have it with him, and to produce it if required. Duty of persons arresting.

2. It is the duty of every one arresting another, whether with or without warrant, to give notice, where practicable, of the process or warrant under which he acts, or of the cause of the arrest.

3. A failure to fulfil either of the two duties last mentioned shall not of itself deprive the person executing the process or warrant, or his assistants, or the person arresting, of protection from criminal responsibility, but shall be relevant to the inquiry whether the process or warrant might not have been executed, or the arrest effected, by reasonable means in a less violent manner.

**33.** Every peace officer proceeding lawfully to arrest, with or without warrant, any person for any offence for which the offender may be arrested without warrant, and every one lawfully assisting in such arrest, is justified, if the person to be arrested takes to flight to avoid arrest, in using such force as may be necessary to prevent his escape by such flight, unless such escape can be prevented by reasonable means in a less violent manner. Peace officer preventing escape from arrest for certain offences.

**34.** Every private person proceeding lawfully to arrest without warrant any person for any offence for which the offender Private person preventing escape from



arrest for certain offences.

offender may be arrested without warrant is justified, if the person to be arrested takes to flight to avoid arrest, in using such force as may be necessary to prevent his escape by flight, unless such escape can be prevented by reasonable means in a less violent manner: Provided, that such force is neither intended nor likely to cause death or grievous bodily harm.

Preventing escape from arrest in other cases.

**35.** Every one proceeding lawfully to arrest any person for any cause other than such offence as in the last section mentioned is justified, if the person to be arrested takes to flight to avoid arrest, in using such force as may be necessary to prevent his escape by flight, unless such escape can be prevented by reasonable means in a less violent manner: Provided such force is neither intended nor likely to cause death or grievous bodily harm.

Preventing escape or rescue after arrest in certain offences.

**36.** Every one who has lawfully arrested any person for any offence for which the offender may be arrested without warrant is protected from criminal responsibility in using such force in order to prevent the rescue or escape of the person arrested as he believes, on reasonable grounds, to be necessary for that purpose.

Preventing escape or rescue after arrest in other cases.

**37.** Every one who has lawfully arrested any person for any cause other than an offence for which the offender may be arrested without warrant is protected from criminal responsibility in using such force in order to prevent his escape or rescue as he believes, on reasonable grounds, to be necessary for that purpose: Provided that such force is neither intended nor likely to cause death or grievous bodily harm.

Preventing breach of the peace.

**38.** Every one who witnesses a breach of the peace is justified in interfering to prevent its continuance or renewal and may detain any person committing or about to join in or renew such breach of the peace, in order to give him into the custody of a peace officer: provided that the person interfering uses no more force than is reasonably necessary for preventing the continuance or renewal of such breach of the peace, or than is reasonably proportioned to the danger to be apprehended from the continuance or renewal of such breach of the peace.

Prevention by peace officers of breach of the peace.

**39.** Every peace officer who witnesses a breach of the peace, and every person lawfully assisting him, is justified in arresting any one whom he finds committing such breach of the peace, or whom he, on reasonable and probable grounds, believes to be about to join in or renew such breach of the peace.

2. Every peace officer is justified in receiving into custody any person given into his charge as having been a party to



a breach of the peace by one who has, or whom such peace officer, upon reasonable and probable grounds, believes to have, witnessed such breach of the peace.

**40.** Every sheriff, deputy sheriff, mayor or other head officer or acting head officer of any county, city, town or district, and every magistrate and justice of the peace, is justified in using, and ordering to be used, and every peace officer is justified in using, such force as he, in good faith, and on reasonable and probable grounds, believes to be necessary to suppress a riot, and as is not disproportioned to the danger which he, on reasonable and probable grounds, believes to be apprehended from the continuance of the riot.

Suppression  
of riot by  
magistrates.

**41.** Every one, whether subject to military law or not, acting in good faith in obedience to orders given by any sheriff, deputy sheriff, mayor or other head officer or acting head officer of any county, city, town or district, or by any magistrate or justice of the peace, for the suppression of a riot, is justified in obeying the orders so given unless such orders are manifestly unlawful, and is protected from criminal responsibility in using such force as he, on reasonable and probable grounds, believes to be necessary for carrying into effect such orders.

Suppression  
of riot by  
persons acting  
under lawful  
orders.

2. It shall be a question of law whether any particular order is manifestly unlawful or not.

**42.** Every one, whether subject to military law or not, who in good faith and on reasonable and probable grounds believes that serious mischief will arise from a riot before there is time to procure the intervention of any of the authorities aforesaid, is justified in using such force as he, in good faith and on reasonable and probable grounds, believes to be necessary for the suppression of such riot, and as is not disproportioned to the danger which he, on reasonable grounds, believes to be apprehended from the continuance of the riot.

Suppression of  
riot by per-  
sons without  
orders.

**43.** Every one who is bound by military law to obey the lawful command of his superior officer is justified in obeying any command given him by his superior officer for the suppression of a riot, unless such order is manifestly unlawful.

Protection  
of persons  
subject to  
military law.

2. It shall be a question of law whether any particular order is manifestly unlawful or not.

**44.** Every one is justified in using such force as may be reasonably necessary in order to prevent the commission of any offence for which, if committed, the offender might be arrested without warrant, and the commission of which would be likely to cause immediate and serious injury to the person or property of any one: or in order to prevent any

Prevention of  
certain  
offences.

any act being done which he, on reasonable grounds, believes would, if committed, amount to any of such offences.

Self-defence  
against unprovoked assault.

**45.** Every one unlawfully assaulted, not having provoked such assault, is justified in repelling force by force, if the force he uses is not meant to cause death or grievous bodily harm, and is no more than is necessary for the purpose of self-defence; and every one so assaulted is justified, though he causes death or grievous bodily harm, if he causes it under reasonable apprehension of death or grievous bodily harm from the violence with which the assault was originally made or with which the assailant pursues his purpose, and if he believes, on reasonable grounds, that he cannot otherwise preserve himself from death or grievous bodily harm.

Self-defence  
against provoked assault.

**46.** Every one who has without justification assaulted another, or has provoked an assault from that other, may nevertheless justify force subsequent to such assault, if he uses such force under reasonable apprehension of death or grievous bodily harm from the violence of the person first assaulted or provoked, and in the belief, on reasonable grounds, that it is necessary for his own preservation from death or grievous bodily harm: Provided, that he did not commence the assault with intent to kill or do grievous bodily harm, and did not endeavour at any time before the necessity for preserving himself arose, to kill or do grievous bodily harm: Provided also, that before such necessity arose he declined further conflict, and quitted or retreated from it as far as was practicable.

2. Provocation, within the meaning of this and the last preceding section, may be given by blows, words or gestures.

Prevention of  
insult.

**47.** Every one is justified in using force in defence of his own person, or that of any one under his protection, from an assault accompanied with insult: Provided, that he uses no more force than is necessary to prevent such assault, or the repetition of it: Provided also, that this section shall not justify the wilful infliction of any hurt or mischief disproportionate to the insult which the force used was intended to prevent.

Defence of  
movable  
property  
against trespasser.

**48.** Every one who is in peaceable possession of any movable property or thing, and every one lawfully assisting him, is justified in resisting the taking of such thing by any trespasser, or in retaking it from such trespasser, if in either case he does not strike or do bodily harm to such trespasser; and if, after any one being in peaceable possession as aforesaid has laid hands upon any such thing, such trespasser persists in attempting to keep it or to take it from the possessor, or from any one lawfully assisting him, the trespasser shall be deemed

deemed to commit an assault without justification or provocation.

**49.** Every one who is in peaceable possession of any movable property or thing under a claim of right, and every one acting under his authority, is protected from criminal responsibility for defending such possession, even against a person entitled by law to the possession of such property or thing, if he uses no more force than is necessary.

Defence of movable property with claim of right.

**50.** Every one who is in peaceable possession of any movable property or thing, but neither claims right thereto nor acts under the authority of a person claiming right thereto, is neither justified nor protected from criminal responsibility for defending his possession against a person entitled by law to the possession of such property or thing.

Defence of movable property without claim of right.

**51.** Every one who is in peaceable possession of a dwelling-house, and every one lawfully assisting him or acting by his authority, is justified in using such force as is necessary to prevent the forcible breaking and entering of such dwelling-house, either by night or day, by any person with the intent to commit any indictable offence therein.

Defence of dwelling-house.

**52.** Every one who is in peaceable possession of a dwelling-house, and every one lawfully assisting him or acting by his authority, is justified in using such force as is necessary to prevent the forcible breaking and entering of such dwelling-house by night by any person, if he believes, on reasonable and probable grounds, that such breaking and entering is attempted with the intent to commit any indictable offence therein.

Defence of dwelling-house at night.

**53.** Every one who is in peaceable possession of any house or land, or other real property, and every one lawfully assisting him or acting by his authority, is justified in using force to prevent any person from trespassing on such property, or to remove him therefrom, if he uses no more force than is necessary; and if such trespasser resists such attempt to prevent his entry or to remove him such trespasser shall be deemed to commit an assault without justification or provocation.

Defence of real property.

**54.** Every one is justified in peaceably entering in the day-time to take possession of any house or land to the possession of which he, or some person under whose authority he acts, is lawfully entitled.

Assertion of right to house or land.

2. If any person, not having or acting under the authority of one having peaceable possession of any such house or land with a claim of right, assaults any one peaceably entering as aforesaid, for the purpose of making him desist from such entry,

entry,



entry, such assault shall be deemed to be without justification or provocation.

3. If any person having peaceable possession of such house or land with a claim of right, or any person acting by his authority, assaults any one entering as aforesaid, for the purpose of making him desist from such entry, such assault shall be deemed to be provoked by the person entering.

Discipline of  
minors.

**55.** It is lawful for every parent, or person in the place of a parent, schoolmaster or master, to use force by way of correction towards any child, pupil or apprentice under his care, provided that such force is reasonable under the circumstances.

Discipline on  
ships.

**56.** It is lawful for the master or officer in command of a ship on a voyage to use force for the purpose of maintaining good order and discipline on board of his ship, provided that he believes, on reasonable grounds, that such force is necessary, and provided also that the force used is reasonable in degree.

Surgical operations.

**57.** Every one is protected from criminal responsibility for performing with reasonable care and skill any surgical operation upon any person for his benefit, provided that performing the operation was reasonable, having regard to the patient's state at the time, and to all the circumstances of the case.

Excess.

**58.** Every one authorized by law to use force is criminally responsible for any excess, according to the nature and quality of the act which constitutes the excess.

Consent to  
death.

**59.** No one has a right to consent to the infliction of death upon himself; and if such consent is given, it shall have no effect upon the criminal responsibility of any person by whom such death may be caused.

Obedience to  
*de facto* law.

**60.** Every one is protected from criminal responsibility for any act done in obedience to the laws for the time being made and enforced by those in possession (*de facto*) of the sovereign power in and over the place where the act is done.

### PART III.

#### PARTIES TO THE COMMISSION OF OFFENCES.

Parties to  
offences.

**61.** Every one is a party to and guilty of an offence who—  
(a.) actually commits it; or  
(b.) does or omits an act for the purpose of aiding any person to commit the offence; or  
(c.)



(c.) abets any person in commission of the offence ; or

(d.) counsels or procures any person to commit the offence.

2. If several persons form a common intention to prosecute any unlawful purpose, and to assist each other therein, each of them is a party to every offence committed by any one of them in the prosecution of such common purpose, the commission of which offence was, or ought to have been known to be a probable consequence of the prosecution of such common purpose.

**62.** Every one who counsels or procures another to be a party to an offence of which that other is afterwards guilty is a party to that offence, although it may be committed in a way different from that which was counselled or suggested. Offence committed other than the offence intended.

2. Every one who counsels or procures another to be a party to an offence is a party to every offence which that other commits in consequence of such counselling or procuring, and which the person counselling or procuring knew, or ought to have known, to be likely to be committed in consequence of such counselling or procuring.

**63.** An accessory after the fact to an offence is one who receives, comforts or assists any one who has been a party to such offence in order to enable him to escape, knowing him to have been a party thereto. Accessory after the fact.

2. No married person whose husband or wife has been a party to an offence shall become an accessory after the fact thereto by receiving, comforting or assisting the other of them, and no married woman whose husband has been a party to an offence shall become an accessory after the fact thereto, by receiving, comforting or assisting in his presence and by his authority any other person who has been a party to such offence in order to enable her husband or such other person to escape.

**64.** Every one who, having an intent to commit an offence, does or omits an act for the purpose of accomplishing his object is guilty of an attempt to commit the offence intended whether under the circumstances it was possible to commit such offence or not. Attempts.

2. The question whether an act done or omitted with intent to commit an offence is or is not only preparation for the commission of that offence, and too remote to constitute an attempt to commit it, is a question of law.

## TITLE II.

### OFFENCES AGAINST PUBLIC ORDER, INTERNAL AND EXTERNAL.

#### PART IV.

#### TREASON AND OTHER OFFENCES AGAINST THE QUEEN'S AUTHORITY AND PERSON.

Treason.

**65.** Treason is—

(a.) the act of killing Her Majesty, or doing her any bodily harm tending to death or destruction, maim or wounding, and the act of imprisoning or restraining her ; or

(b.) the forming and manifesting by an overt act an intention to kill Her Majesty, or to do her any bodily harm tending to death or destruction, maim or wounding, or to imprison or to restrain her ; or

(c.) the act of killing the eldest son and heir apparent of Her Majesty, or the Queen consort of any King of the United Kingdom of Great Britain and Ireland ; or

(d.) the forming and manifesting, by an overt act, an intention to kill the eldest son and heir apparent of Her Majesty, or the Queen consort of any King of the United Kingdom of Great Britain and Ireland ; or

(e.) conspiring with any person to kill Her Majesty, or to do her any bodily harm tending to death or destruction, maim or wounding, or conspiring with any person to imprison or restrain her ; or

(f.) levying war against Her Majesty either—

(i.) with intent to depose Her Majesty from the style, honour and royal name of the Imperial Crown of the United Kingdom of Great Britain and Ireland or of any other of Her Majesty's dominions or countries ;

(ii.) in order, by force or constraint, to compel Her Majesty to change her measures or counsels, or in order to intimidate or overawe both Houses or either House of Parliament of the United Kingdom or of Canada ; or

(g.) conspiring to levy war against Her Majesty with any such intent or for any such purpose as aforesaid ; or

(h.) instigating any foreigner with force to invade the said United Kingdom or Canada or any other of the dominions of Her Majesty ; or

(i.) assisting any public enemy at war with Her Majesty in such war by any means whatsoever ; or

(j.) violating, whether with her consent or not, a Queen consort, or the wife of the eldest son and heir apparent, for the time being, of the King or Queen regnant.

2. Every one who commits treason is guilty of an indictable offence and liable to suffer death.

**66.** In every case in which it is treason to conspire with Conspiracy. any person for any purpose the act of so conspiring, and every overt act of any such conspiracy, is an overt act of treason.

**67.** Every one is guilty of an indictable offence and liable Accessories after the fact. to two years' imprisonment who—

(a.) becomes an accessory after the fact to treason; or

(b.) knowing that any person is about to commit treason does not, with all reasonable despatch, give information thereof to a justice of the peace, or use other reasonable endeavours to prevent the commission of the same.

**68.** Every subject or citizen of any foreign state or country Levying war by subjects of a state at peace with Her Majesty. at peace with Her Majesty, who—

(a.) is or continues in arms against Her Majesty within Canada; or

(b.) commits any act of hostility therein; or

(c.) enters Canada with intent to levy war against Her Majesty, or to commit any indictable offence therein for which any person would, in Canada, be liable to suffer death; and

Every subject of Her Majesty within Canada who—

(d.) levies war against Her Majesty in company with any of the subjects or citizens of any foreign state or country at peace with Her Majesty; or

(e.) enters Canada in company with any such subjects or citizens with intent to levy war against Her Majesty, or to commit any such offence therein; or

(f.) with intent to aid and assist, joins himself to any person who has entered Canada with intent to levy war against Her Majesty, or to commit any such offence therein—is guilty of an indictable offence and liable to suffer death. R.S.C., c. 146, ss. 6 and 7.

**69.** Every one is guilty of an indictable offence and liable Treasonable offences. to imprisonment for life who forms any of the intentions hereinafter mentioned, and manifests any such intention by conspiring with any person to carry it into effect, or by any other overt act, or by publishing any printing or writing; that is to say—

(a.) an intention to depose Her Majesty from the style, honour and royal name of the Imperial Crown of the United Kingdom of Great Britain and Ireland, or of any other of Her Majesty's dominions or countries;

(b.) an intention to levy war against Her Majesty within any part of the said United Kingdom, or of Canada, in order by force or constraint to compel her to change her measures or counsels, or in order to put any force or constraint upon or in order to intimidate or overawe both Houses or either House of Parliament of the United Kingdom or of Canada;

(c.)

(c.) an intention to move or stir any foreigner or stranger with force to invade the said United Kingdom, or Canada, or any other of Her Majesty's dominions or countries under the authority of Her Majesty. R.S.C., c. 146, s. 3.

Conspiracy to  
intimidate a  
legislature.

**70.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who confederates, combines or conspires with any person to do any act of violence in order to intimidate, or to put any force or constraint upon, any Legislative Council, Legislative Assembly or House of Assembly. R.S.C., c. 146, s. 4.

Assaults on  
the Queen.

**71.** Every one is guilty of an indictable offence and liable to seven years' imprisonment, and to be whipped once, twice or thrice as the court directs, who—

(a.) wilfully produces, or has near Her Majesty, any arm or destructive or dangerous thing with intent to use the same to injure the person of, or to alarm, Her Majesty ; or

(b.) wilfully and with intent to alarm or to injure Her Majesty, or to break the public peace :

(i.) points, aims or presents at or near Her Majesty any firearm, loaded or not, or any other kind of arm ;

(ii.) discharges at or near Her Majesty any loaded arm ;

(iii.) discharges any explosive material near Her Majesty ;

(iv.) strikes, or strikes at, Her Majesty in any manner whatever ;

(v.) throws anything at or upon Her Majesty ; or

(c.) attempts to do any of the things specified in paragraph (b) of this section.

Inciting to  
mutiny.

**72.** Every one is guilty of an indictable offence and liable to imprisonment for life who, for any traitorous or mutinous purpose, endeavours to seduce any person serving in Her Majesty's forces by sea or land from his duty and allegiance to Her Majesty, or to incite or stir up any such person to commit any traitorous or mutinous practice.

Enticing  
soldiers or  
sailors to  
desert.

**73.** Every one is guilty of an indictable offence who, not being an enlisted soldier in Her Majesty's service, or a seaman in Her Majesty's naval service—

(a.) by words or with money, or by any other means whatsoever, directly or indirectly persuades or procures, or goes about or endeavours to persuade, prevail on or procure, any such seaman or soldier to desert from or leave Her Majesty's military or naval service ; or

(b.) conceals, receives or assists any deserter from Her Majesty's military or naval service, knowing him to be such deserter.

2. The offender may be prosecuted by indictment, or summarily before two justices of the peace. In the former case he is liable to fine and imprisonment in the discretion of the court, and in the latter to a penalty not exceeding two hundred



dred dollars, and not less than eighty dollars and costs, and in default of payment to imprisonment for any term not exceeding six months. R.S.C., c. 169, ss. 1 and 4.

**74.** Every one who resists the execution of any warrant authorizing the breaking open of any building to search for any deserter from Her Majesty's military or naval service is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty of eighty dollars. R.S.C., c. 169, s. 7.

Resisting execution of warrant for arrest of deserters.

**75.** Every one is guilty of an offence and liable, on summary conviction, to six months' imprisonment with or without hard labour, who—

Enticing militiamen or members of the North-west mounted police force to desert.

(a.) persuades any man who has been enlisted to serve in any corps of militia, or who is a member of or has engaged to serve in the North-west mounted police force, to desert, or attempts to procure or persuade any such man to desert; or

(b.) knowing that any such man is about to desert, aids or assists him in deserting; or

(c.) knowing any such man is a deserter, conceals such man or aids or assists in his rescue. R.S.C., c. 41, s. 109; 52 V., c. 25, s. 4.

**76.** In the two following sections, unless the context otherwise requires—

Interpretation.

(a.) Any reference to a place belonging to Her Majesty includes a place belonging to any department of the Government of the United Kingdom, or of the Government of Canada, or of any province, whether the place is or is not actually vested in Her Majesty;

(b.) Expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated;

(c.) The expression "document" includes part of a document;

(d.) The expression "model" includes design, pattern and specimen;

(e.) The expression "sketch" includes any photograph or other mode of expression of any place or thing;

(f.) The expression "office under Her Majesty," includes any office or employment in or under any department of the Government of the United Kingdom, or of the Government of Canada or of any province. 53 V., c. 10, s. 5.

**77.** Every one is guilty of an indictable offence and liable to imprisonment for one year, or to a fine not exceeding one hundred dollars, or to both imprisonment and fine, who—

Unlawfully obtaining and communicating information.

(a.) for the purpose of wrongfully obtaining information—

(i.) enters or is in any part of a place in Canada belonging to Her Majesty, being a fortress, arsenal, factory, dockyard, camp, ship, office or other like place, in which part he is not entitled to be; or

(ii.) when lawfully or unlawfully in any such place as aforesaid either obtains any document, sketch, plan, model or knowledge of anything which he is not entitled to obtain, or takes without lawful authority any sketch or plan; or

(iii.) when outside any fortress, arsenal, factory, dockyard or camp in Canada, belonging to Her Majesty, takes, or attempts to take, without authority given by or on behalf of Her Majesty, any sketch or plan of that fortress, arsenal, factory, dockyard or camp; or

(b.) knowingly having possession of or control over any such document, sketch, plan, model, or knowledge as has been obtained or taken by means of any act which constitutes an offence against this and the following section, at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not, in the interests of the state, to be communicated at that time; or

(c.) after having been intrusted in confidence by some officer under Her Majesty with any document, sketch, plan, model or information relating to any such place as aforesaid, or to the naval or military affairs of Her Majesty, wilfully, and in breach of such confidence, communicates the same when, in the interests of the state, it ought not to be communicated; or

(d.) having possession of any document relating to any fortress, arsenal, factory, dockyard, camp, ship, office or other like place belonging to Her Majesty, or to the naval or military affairs of Her Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, in the interests of the state, to be communicated at the time:

2. Every one who commits any such offence intending to communicate to a foreign state any information, document, sketch, plan, model or knowledge obtained or taken by him, or intrusted to him as aforesaid, or communicates the same to any agent of a foreign state, is guilty of an indictable offence and liable to imprisonment for life. 53 V., c. 10, s. 1.

Communi-  
cating infor-  
mation  
acquired by  
holding  
office.

**78.** Every one who, by means of his holding or having held an office under Her Majesty, has lawfully or unlawfully, either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and at any time corruptly, or contrary to his official duty, communicates or attempts to communicate such document, sketch, plan, model or information to any person to whom the

the same ought not, in the interests of the state, or otherwise in the public interest, to be communicated at that time, is guilty of an indictable offence and liable—

(a.) if the communication was made, or attempted to be made, to a foreign state, to imprisonment for life; and

(b.) in any other case to imprisonment for one year, or to a fine not exceeding one hundred dollars, or to both imprisonment and fine.

2. This section shall apply to a person holding a contract with Her Majesty, or with any department of the Government of the United Kingdom, or of the Government of Canada, or of any province, or with the holder of any office under Her Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract who is under a like obligation of secrecy, as if the person holding the contract, and the person so employed, were respectively holders of an office under Her Majesty. 53 V., c. 10, s. 2.

#### PART V.

### UNLAWFUL ASSEMBLIES, RIOTS, BREACHES OF THE PEACE.

**79.** An unlawful assembly is an assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner or so conduct themselves when assembled as to cause persons in the neighbourhood of such assembly to fear, on reasonable grounds, that the persons so assembled will disturb the peace tumultuously, or will by such assembly needlessly and without any reasonable occasion provoke other persons to disturb the peace tumultuously. Definition of unlawful assembly.

2. Persons lawfully assembled may become an unlawful assembly if they conduct themselves with a common purpose in such a manner as would have made their assembling unlawful if they had assembled in that manner for that purpose.

3. An assembly of three or more persons for the purpose of protecting the house of any one in their number against persons threatening to break and enter such house in order to commit any indictable offence therein is not unlawful.

**80.** A riot is an unlawful assembly which has begun to disturb the peace tumultuously. Definition of riot.

**81.** Every member of an unlawful assembly is guilty of an indictable offence and liable to one year's imprisonment. R.S.C., c. 147, s. 11. Punishment of unlawful assembly.

Punishment  
of riot.

**82.** Every rioter is guilty of an indictable offence and liable to two years' imprisonment with hard labour. R.S.C., c. 148, s. 13.

Reading the  
Riot Act.

**83.** It is the duty of every sheriff, deputy sheriff, mayor or other head officer, and justice of the peace, of any county, city or town, who has notice that there are within his jurisdiction persons to the number of twelve or more unlawfully, riotously and tumultuously assembled together to the disturbance of the public peace, to resort to the place where such unlawful, riotous and tumultuous assembly is, and among the rioters, or as near to them as he can safely come, with a loud voice to command or cause to be commanded silence, and after that openly and with loud voice to make or cause to be made a proclamation in these words or to the like effect:—

“Our Sovereign Lady the Queen charges and commands all persons being assembled immediately to disperse and peaceably to depart to their habitations or to their lawful business, upon the pain of being guilty of an offence on conviction of which they may be sentenced to imprisonment for life.

“GOD SAVE THE QUEEN.”

2. All persons are guilty of an indictable offence and liable to imprisonment for life who—

(a.) with force and arms wilfully oppose, hinder or hurt any person who begins or is about to make the said proclamation, whereby such proclamation is not made; or

(b.) continue together to the number of twelve for thirty minutes after such proclamation has been made, or if they know that its making was hindered as aforesaid, within thirty minutes after such hindrance. R.S.C., c. 147, ss. 1 and 2.

Duty of justice if rioters do not disperse.

**84.** If the persons so unlawfully, riotously and tumultuously assembled together as mentioned in the next preceding section, or twelve or more of them, continue together, and do not disperse themselves, for the space of thirty minutes after the proclamation is made or after such hindrance as aforesaid, it is the duty of every such sheriff, justice and other officer, and of all persons required by them to assist, to cause such persons to be apprehended and carried before a justice of the peace; and if any of the persons so assembled is killed or hurt in the apprehension of such persons or in the endeavour to apprehend or disperse them, by reason of their resistance, every person ordering them to be apprehended or dispersed, and every person executing such orders, shall be indemnified against all proceedings of every kind in respect thereof: Provided, that nothing herein contained shall, in any way, limit or affect any duties or powers imposed or given by this Act as to the suppression of riots before or after the making of the said proclamation. R.S.C., c. 147, s. 3.



**85.** All persons are guilty of an indictable offence and liable to imprisonment for life who, being riotously and tumultuously assembled together to the disturbance of the public peace, unlawfully and with force demolish or pull down, or begin to demolish or pull down, any building, or any machinery, whether fixed or movable, or any erection used in farming land, or in carrying on any trade or manufacture, or any erection or structure used in conducting the business of any mine, or any bridge, waggon-way or track for conveying minerals from any mine. R.S.C., c. 147, s. 9.

Riotous destruction of buildings.

**86.** All persons are guilty of an indictable offence and liable to seven years' imprisonment who, being riotously and tumultuously assembled together to the disturbance of the public peace, unlawfully and with force injure or damage any of the things mentioned in the last preceding section.

Riotous damage to buildings.

2. It shall not be a defence to a charge of an offence against this or the last preceding section that the offender believed he had a right to act as he did, unless he actually had such a right. R.S.C., c. 147, s. 10.

**87.** The Governor in Council is authorized from time to time to prohibit assemblies without lawful authority of persons for the purpose of training or drilling themselves, or of being trained or drilled to the use of arms, or for the purpose of practising military exercises, movements or evolutions, and to prohibit persons when assembled for any other purpose so training or drilling themselves or being trained or drilled. Any such prohibition may be general or may apply only to a particular place or district and to assemblies of a particular character, and shall come into operation from the publication in the *Canada Gazette* of a proclamation embodying the terms of such prohibition, and shall continue in force until the like publication of a proclamation issued by the authority of the Governor in Council revoking such prohibition.

Unlawful drilling.

2. Every person is guilty of an indictable offence and liable to two years' imprisonment who, without lawful authority and in contravention of such prohibition or proclamation—

(a.) is present at or attends any such assembly for the purpose of training or drilling any other person to the use of arms or the practice of military exercises or evolutions; or

(b.) at any assembly trains or drills any other person to the use of arms or the practice of military exercises or evolutions. R.S.C., c. 147, ss. 4 and 5.

**88.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, without lawful authority, attends, or is present at, any such assembly as in the last preceding section mentioned, for the purpose of being, or who at any such assembly is, without lawful authority and in contravention of such prohibition or proclamation trained

Being unlawfully drilled.

trained or drilled to the use of arms or the practice of military exercises or evolutions. R.S.C., c. 147, s. 6.

Forcible entry and detainer.

**89.** Forcible entry is where a person, whether entitled or not, enters in a manner likely to cause a breach of the peace, or reasonable apprehension thereof, on land then in actual and peaceable possession of another.

2. Forcible detainer is where a person in actual possession of land, without colour of right, detains it in a manner likely to cause a breach of the peace, or reasonable apprehension thereof, against a person entitled by law to the possession thereof.

3. What amounts to actual possession or colour of right is a question of law.

4. Every one who forcibly enters or forcibly detains land is guilty of an indictable offence and liable to one year's imprisonment.

Affray.

**90.** An affray is the act of fighting in any public street or highway, or fighting to the alarm of the public in any other place to which the public have access.

2. Every one who takes part in an affray is guilty of an indictable offence and liable to one year's imprisonment with hard labour. R.S.C., c. 147, s. 14.

Challenge to fight a duel.

**91.** Every one is guilty of an indictable offence and liable to three years' imprisonment who challenges or endeavours by any means to provoke any person to fight a duel, or endeavours to provoke any person to challenge any other person so to do.

Prize-fighting defined.

**92.** In sections ninety-three to ninety-seven inclusive the expression "prize-fight" means an encounter or fight with fists or hands, between two persons who have met for such purpose by previous arrangement made by or for them. R.S.C., c. 153, s. 1.

Challenging to fight a prize-fight, &c.

**93.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding one thousand dollars and not less than one hundred dollars, or to imprisonment for a term not exceeding six months, with or without hard labour or to both, who sends or publishes, or causes to be sent or published or otherwise made known, any challenge to fight a prize-fight, or accepts any such challenge, or causes the same to be accepted, or goes into training preparatory to such fight, or acts as trainer or second to any person who intends to engage in a prize-fight. R.S.C., c. 153, s. 2.

Engaging as principal in a prize-fight.

**94.** Every one is guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding twelve months and not less than three months, with or without

without hard labour who engages as a principal in a prize-fight. R.S.C., c. 153, s. 3.

**95.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding five hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding twelve months, with or without hard labour or to both, who is present at a prize-fight as an aid, second, surgeon, umpire, backer, assistant or reporter, or who advises, encourages or promotes such fight. R.S.C., c. 153, s. 5.

Attending or promoting a prize-fight.

**96.** Every inhabitant or resident of Canada is guilty of an offence and liable, on summary conviction, to a penalty not exceeding four hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding six months, with or without hard labour or to both, who leaves Canada with intent to engage in a prize-fight without the limits thereof. R.S.C., c. 153, s. 5.

Leaving Canada to engage in a prize-fight.

**97.** If, after hearing evidence of the circumstances connected with the origin of the fight or intended fight, the person before whom the complaint is made is satisfied that such fight or intended fight was *bonâ fide* the consequence or result of a quarrel or dispute between the principals engaged or intended to engage therein, and that the same was not an encounter or fight for a prize, or on the result of which the handing over or transfer of money or property depended, such person may, in his discretion, discharge the accused or impose upon him a penalty not exceeding fifty dollars. R.S.C., c. 153, s. 9.

Where the fight is not prize-fight, discharge or fine.

**98.** Every one is guilty of an indictable offence and liable to two years' imprisonment who induces, incites or stirs up any three or more Indians, non-treaty Indians, or half-breeds, apparently acting in concert—

Inciting Indians to riotous acts.

(a.) to make any request or demand of any agent or servant of the Government in a riotous, routous, disorderly or threatening manner, or in a manner calculated to cause a breach of the peace; or

(b.) to do any act calculated to cause a breach of the peace. R.S.C., c. 43, s. 111.

#### PART VI.

### UNLAWFUL USE AND POSSESSION OF EXPLOSIVE SUBSTANCES AND OFFENSIVE WEAPONS —SALE OF LIQUORS.

**99.** Every one is guilty of an indictable offence and liable to imprisonment for life who wilfully causes, by any explosive

Causing dangerous explosions.

explosive substance, an explosion of a nature likely to endanger life or to cause serious injury to property, whether any injury to person or property is actually caused or not. R.S.C., c. 150, s. 3.

Doing anything, or possessing explosive substances, with intent to cause dangerous explosions.

**100.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who wilfully—

(a.) does any act with intent to cause by an explosive substance, or conspires to cause by an explosive substance, an explosion of a nature likely to endanger life, or to cause serious injury to property;

(b.) makes or has in his possession or under his control any explosive substance with intent by means thereof to endanger life or to cause serious injury to property, or to enable any other person by means thereof to endanger life or to cause serious injury to property—

whether any explosion takes place or not and whether any injury to person or property is actually caused or not. R.S.C., c. 150, s. 3.

Unlawfully making or possessing explosive substances.

**101.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who makes, or knowingly has in his possession or under his control, any explosive substance under such circumstances as to give rise to a reasonable suspicion that he is not making it, or has it not in his possession or under his control, for a lawful object, unless he can show that he made it or had it in his possession or under his control for a lawful object. R.S.C., c. 150, s. 5.

Having possession of arms for purposes dangerous to the public peace.

**102.** Every one is guilty of an indictable offence and liable to five years' imprisonment who has in his custody or possession, or carries, any offensive weapons for any purpose dangerous to the public peace. R.S.C., c. 149, s. 4.

Two or more persons openly carrying dangerous weapons so as to cause alarm.

**103.** If two or more persons openly carry offensive weapons in a public place in such a manner and under such circumstances as are calculated to create terror and alarm, each of such persons is liable, on summary conviction before two justices of the peace, to a penalty not exceeding forty dollars and not less than ten dollars, and in default of payment to imprisonment for any term not exceeding thirty days. R.S.C., c. 148, s. 8.

Smugglers carrying offensive weapons.

**104.** Every one is guilty of an indictable offence and liable to imprisonment for ten years who is found with any goods liable to seizure or forfeiture under any law relating to inland revenue, the customs, trade or navigation, and knowing them to be so liable, and carrying offensive weapons. R.S.C., c. 32, s. 213.

Carrying a pistol or air-gun without justification.

**105.** Every one is guilty of an offence and liable on summary conviction to a penalty not exceeding twenty-five dollars



dollars and not less than five dollars, or to imprisonment for one month, who, not being a justice or a public officer, or a soldier, sailor or volunteer in Her Majesty's service, on duty, or a constable or other peace officer, and not having a certificate of exemption from the operation of this section as hereinafter provided for, and not having at the time reasonable cause to fear an assault or other injury to his person, family or property, has upon his person a pistol or air-gun elsewhere than in his own dwelling-house, shop, warehouse, or counting-house.

2. If sufficient cause be shown upon oath to the satisfaction of any justice, he may grant to any applicant therefor not under the age of sixteen years and as to whose discretion and good character he is satisfied by evidence upon oath, a certificate of exemption from the operation of this section, for such period, not exceeding twelve months, as he deems fit. Certificate of exemption.

3. Such certificate, upon the trial of any offence, shall be *prima facie* evidence of its contents and of the signature and official character of the person by whom it purports to be granted.

4. When any such certificate is granted under the preceding provisions of this section, the justice granting it shall forthwith make a return thereof to the proper officer in the county, district or place in which such certificate has been granted for receiving returns under section nine hundred and two; and in default of making such return within ninety days after a certificate is granted, the justice shall be liable, on summary conviction, to a penalty of not more than ten dollars.

5. Whenever the Governor in Council deems it expedient in the public interest, he may by proclamation suspend the operation of the provisions of the first and second subsections of this section respecting certificates of exemption, or exempt from such operation any particular part of Canada, and in either case for such period, and with such exceptions as to the persons hereby affected, as he deems fit. Governor in Council may suspend operation.

**106.** Every one is guilty of an offence and liable on summary conviction to a penalty not exceeding fifty dollars, who sells or gives any pistol or air-gun, or any ammunition therefor, to a minor under the age of sixteen years, unless he establishes to the satisfaction of the justice before whom he is charged that he used reasonable diligence in endeavouring to ascertain the age of the minor before making such sale or gift, and that he had good reason to believe that such minor was not under the age of sixteen. Selling pistol or air-gun to minor.

2. Every one is guilty of an offence and liable on summary conviction to a penalty not exceeding twenty-five dollars who sells any pistol or air-gun without keeping a record of such sale, the date thereof, and the name of the purchaser and of the maker's name, or other mark by which such arm may be identified.

Having weapons on person when arrested.

**107.** Every one who when arrested, either on a warrant issued against him for an offence or while committing an offence, has upon his person a pistol or air-gun is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty not exceeding fifty dollars and not less than twenty dollars, or to imprisonment for any term not exceeding three months, with or without hard labour. R.S.C., c. 148, s. 2.

Having weapons on the person with intent to injure any person.

**108.** Every one who has upon his person a pistol or air-gun, with intent therewith unlawfully to do injury to any other person, is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty not exceeding two hundred dollars and not less than fifty dollars, or to imprisonment for any term not exceeding six months, with or without hard labour. R.S.C., c. 148, s. 3.

Pointing any firearm at any person.

**109.** Every one who, without lawful excuse, points at another person any firearm or air-gun, whether loaded or unloaded, is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty not exceeding one hundred dollars and not less than ten dollars, or to imprisonment for any term not exceeding thirty days, with or without hard labour. R.S.C., c. 148, s. 4.

Carrying offensive weapons about the person.

**110.** Every one who carries about his person any bowie-knife, dagger, dirk, metal knuckles, skull cracker, slung shot, or other offensive weapon of a like character, or secretly carries about his person any instrument loaded at the end, or sells or exposes for sale, publicly or privately, any such weapon, or being masked or disguised carries or has in his possession any firearm or air-gun, is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty not exceeding fifty dollars and not less than ten dollars, and in default of payment thereof to imprisonment for any term not exceeding thirty days, with or without hard labour. R.S.C., c. 148, s. 5.

Carrying sheath-knives in seaports.

**111.** Every one, not being thereto required by his lawful trade or calling, who is found in any town or city carrying about his person any sheath-knife is liable, on summary conviction before two justices of the peace, to a penalty not exceeding forty dollars and not less than ten dollars, and in default of payment thereof to imprisonment for any term not exceeding thirty days, with or without hard labour. R.S.C., c. 148, s. 6.

Exception as to soldiers, &c.

**112.** It is not an offence for any soldier, public officer, peace officer, sailor or volunteer in Her Majesty's service, constable or other policeman, to carry loaded pistols or other usual arms or offensive weapons in the discharge of his duty. R.S.C., c. 148, s. 10.

**113.** Every one attending any public meeting or being on his way to attend the same who, upon demand made by any justice of the peace within whose jurisdiction such public meeting is appointed to be held, declines or refuses to deliver up, peaceably and quietly, to such justice of the peace, any offensive weapon with which he is armed or which he has in his possession, is guilty of an indictable offence.

Refusing to deliver offensive weapon to a justice.

2. The justice of the peace may record the refusal and adjudge the offender to pay a penalty not exceeding eight dollars, or the offender may be proceeded against by indictment as in other cases of indictable offences. R.S.C., c. 152, s. 1.

**114.** Every one, except the sheriff, deputy sheriff and justices of the peace for the district or county, or the mayor, justices of the peace or other peace officer for the city or town respectively, in which any public meeting is held, and the constables and special constables employed by them, or any of them, for the preservation of the public peace at such meeting, is guilty of an indictable offence, and liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both, who, during any part of the day upon which such meeting is appointed to be held, comes within one mile of the place appointed for such meeting armed with any offensive weapon. R.S.C., c. 152, s. 5.

Coming armed within two miles of public meeting.

**115.** Every one is guilty of an indictable offence and liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months, or to both, who lies in wait for any person returning, or expected to return, from any such public meeting, with intent to commit an assault upon such person, or with intent, by abusive language, opprobrious epithets or other offensive demeanour, directed to, at or against such person, to provoke such person, or those who accompany him, to a breach of the peace. R.S.C., c. 152, s. 6.

Lying in wait for persons returning from public meeting.

**116.** Every one is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty of two hundred dollars or to six months' imprisonment, or to both, who, during any time when and within any place in the North-west Territories where section one hundred and one of *The North-west Territories Act* is in force—

Sale of arms in the North-west Territories.

(a.) without the permission in writing (the proof of which shall be on him) of the Lieutenant Governor, or of a commissioner appointed by him to give such permission, has in his possession or sells, exchanges, trades, barter or gives to or with any person, any improved arm or ammunition; or

(b.)



(b.) having such permission sells, exchanges, trades, bar-  
ters or gives any such arm or ammunition to any person  
not lawfully authorized to possess the same.

2. The expression "improved arm" in this section means  
and includes all arms except smooth-bore shot-guns; and  
the expression "ammunition" means fixed ammunition or  
ball cartridge. R.S.C., c. 50, s. 101.

Possessing  
weapons near  
public works.

**117.** Every one employed upon or about any public work,  
within any place in which the *Act respecting the Preserva-  
tion of Peace in the vicinity of Public Works* is then in force,  
is liable, on summary conviction, to a penalty not exceeding  
four dollars and not less than two dollars for every such  
weapon found in his possession who, upon or after the day  
named in the proclamation by which such Act is brought  
into force, keeps or has in his possession, or under his care  
or control, within any such place, any weapon.

2. Every one is liable, on summary conviction, to a penalty  
not exceeding one hundred dollars and not less than forty  
dollars who, for the purpose of defeating the said Act, re-  
ceives or conceals, or aids in receiving or concealing, or  
procures to be received or concealed within any place in  
which the said Act is at the time in force, any weapon  
belonging to or in custody of any person employed on or  
about any public work. R.S.C., c. 151, ss. 1, 5 and 6.

Sale, &c., of  
liquors near  
public works.

**118.** Upon and after the day named in any proclamation  
putting in force in any place *An Act respecting the Preser-  
vation of Peace in the vicinity of Public Works*, and dur-  
ing such period as such proclamation remains in force, no  
person shall, at any place within the limits specified in  
such proclamation, sell, barter, or directly or indirectly, for  
any matter, thing, profit or reward, exchange, supply or  
dispose of any intoxicating liquor, nor expose, keep or have  
in possession any intoxicating liquor intended to be dealt  
with in any such way.

2. The provisions of this section do not extend to any  
person selling intoxicating liquor by wholesale and not  
retailing the same, if such person is a licensed distiller or  
brewer.

3. Every one is liable, on summary conviction, for a first  
offence to a penalty of forty dollars and costs, and, in default  
of payment, to imprisonment for a term not exceeding three  
months, with or without hard labour,—and on every sub-  
sequent conviction to the said penalty and the said im-  
prisonment in default of payment, and also to further im-  
prisonment for a term not exceeding six months, with or  
without hard labour, who, by himself, his clerk, servant,  
agent or other person, violates any of the provisions of this  
or of the preceding section.

4. Every clerk, servant, agent or other person who, being  
in the employment of, or on the premises of, another person,  
violates



violates or assists in violating any of the provisions of this or of the preceding section for the person in whose employment or on whose premises he is, is equally guilty with the principal offender and liable to the same punishment. R.S.C., c. 151, ss. 1, 13, 14 and 15.

**119.** Every one is guilty of an offence and liable, on summary conviction before two justices of the peace, to a fine not exceeding fifty dollars for each offence, and in default of payment to imprisonment for a term not exceeding one month, with or without hard labour, who, without the previous consent of the officer commanding the ship or vessel—

(a.) conveys any intoxicating liquor on board any of Her Majesty's ships or vessels; or

(b.) approaches or hovers about any of Her Majesty's ships or vessels for the purpose of conveying any such liquor on board thereof; or

(c.) gives or sells to any man in Her Majesty's service, on board any such ship or vessel, any intoxicating liquor. 50-51 V., c. 46, s. 1.

Intoxicating  
liquors on  
board Her  
Majesty's  
ships.

#### PART VII.

#### SEDITIONOUS OFFENCES.

**120.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who—

(a.) administers, or is present at and consenting to the administration of, any oath or any engagement purporting to bind the person taking the same to commit any crime punishable by death or imprisonment for more than five years; or

(b.) attempts to induce or compel any person to take any such oath or engagement; or

(c.) takes any such oath or engagement.

Oaths to com-  
mit certain  
offences.

**121.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who—

(a.) administers or is present at and consenting to the administration of any oath or engagement purporting to bind the person taking the same:

(i.) to engage in any mutinous or seditious purpose;

(ii.) to disturb the public peace or commit or endeavour to commit any offence;

(iii.) not to inform and give evidence against any associate, confederate or other person;

(iv.) not to reveal or discover any unlawful combination or confederacy, or any illegal act done or to be done or any illegal oath or obligation or engagement which may have

Other unlaw-  
ful oaths.

have been administered or tendered to or taken by any person, or the import of any such oath or obligation or engagement ; or

(b.) attempts to induce or compel any person to take any such oath or engagement ; or

(c.) takes any such oath or engagement. C.S.L.C., c. 10, s. 1.

Compulsion  
in administer-  
ing and taking  
oaths.

**122.** Any one who, under such compulsion as would otherwise excuse him, offends against either of the last two preceding sections shall not be excused thereby unless, within the period hereinafter mentioned, he declares the same and what he knows touching the same, and the persons by whom and in whose presence, and when and where, such oath or obligation or engagement was administered or taken, by information on oath before one of Her Majesty's justices of the peace for the district or city or county in which such oath or engagement was administered or taken. Such declaration may be made by him within fourteen days after the taking of the oath or, if he is hindered from making it by actual force or sickness, then within eight days of the cessation of such hindrance, or on his trial if it happens before the expiration of either of those periods. C.S.L.C., c. 10, s. 2.

Seditious  
offences de-  
fined.

**123.** No one shall be deemed to have a seditious intention only because he intends in good faith—

(a.) to show that Her Majesty has been misled or mistaken in her measures ; or

(b.) to point out errors or defects in the government or constitution of the United Kingdom, or of any part of it, or of Canada or any province thereof, or in either House of Parliament of the United Kingdom or of Canada, or in any legislature, or in the administration of justice ; or to excite Her Majesty's subjects to attempt to procure, by lawful means, the alteration of any matter in the state ; or

(c.) to point out, in order to their removal, matters which are producing or have a tendency to produce feelings of hatred and ill-will between different classes of Her Majesty's subjects.

2. Seditious words are words expressive of a seditious intention.

3. A seditious libel is a libel expressive of a seditious intention.

4. A seditious conspiracy is an agreement between two or more persons to carry into execution a seditious intention.

Punishment  
of seditious  
offences.

**124.** Every one is guilty of an indictable offence and liable to two years' imprisonment who speaks any seditious words or publishes any seditious libel or is a party to any seditious conspiracy.

Libels on  
foreign sove-  
reigns.

**125.** Every one is guilty of an indictable offence and liable to one year's imprisonment who, without lawful justification,

fiction, publishes any libel tending to degrade, revile or expose to hatred and contempt in the estimation of the people of any foreign state, any prince or person exercising sovereign authority over any such state.

**126.** Every one is guilty of an indictable offence and liable to one year's imprisonment who wilfully and knowingly publishes any false news or tale whereby injury or mischief is or is likely to be occasioned to any public interest. Spreading false news.

#### PART VIII.

#### PIRACY.

**127.** Every one is guilty of an indictable offence who does any act which amounts to piracy by the law of nations, and is liable to the following punishment:— Piracy by the law of nations

(a.) To death, if in committing or attempting to commit such crime the offender murders, attempts to murder or wounds any person, or does any act by which the life of any person is likely to be endangered ;

(b.) To imprisonment for life in all other cases.

**128.** Every one is guilty of an indictable offence and liable to imprisonment for life who, within Canada, does any of the following piratical acts, or who, having done any of the following piratical acts, comes or is brought within Canada without having been tried therefor :— Piratical acts.

(a.) Being a British subject, on the sea, or in any place within the jurisdiction of the Admiralty of England, under colour of any commission from any foreign prince or state, whether such prince or state is at war with Her Majesty or not, or under pretense of authority from any person whomsoever commits any act of hostility or robbery against other British subjects, or during any war is in any way adherent to or gives aid to Her Majesty's enemies ;

(b.) Whether a British subject or not, on the sea or in any place within the jurisdiction of the Admiralty of England, enters into any British ship, and throws overboard, or destroys, any part of the goods belonging to such ship, or laden on board the same ;

(c.) Being on board any British ship on the sea or in any place within the jurisdiction of the Admiralty of England—

(i.) turns enemy or rebel, and piratically runs away with the ship, or any boat, ordnance, ammunition or goods ;

(ii.) yields them up voluntarily to any pirate ;

(iii.) brings any seducing message from any pirate, enemy or rebel ;

(iv.) counsels or procures any persons to yield up or run away with any ship, goods or merchandise, or to turn pirate or to go over to pirates ;

(v.)

(v.) lays violent hands on the commander of any such ship in order to prevent him from fighting in defence of his ship and goods;

(vi.) confines the master or commander of any such ship;

(vii.) makes or endeavours to make a revolt in the ship; or

(d.) Being a British subject in any part of the world, or whether a British subject or not) being in any part of Her Majesty's dominions or on board a British ship, knowingly—

(i.) furnishes any pirate with any ammunition or stores of any kind;

(ii.) fits out any ship or vessel with a design to trade with or supply or correspond with any pirate;

(iii.) conspires or corresponds with any pirate.

Piracy with violence.

**129.** Every one is guilty of an indictable offence and liable to suffer death who, in committing or attempting to commit any piratical act, assaults with intent to murder, or wounds, any person, or does any act likely to endanger the life of any person.

Not fighting pirates.

**130.** Every one is guilty of an indictable offence and liable to six months' imprisonment, and to forfeit to the owner of the ship all wages then due to him, who, being a master, officer or seaman of any merchant ship which carries guns and arms, does not, when attacked by any pirate, fight and endeavour to defend himself and his vessel from being taken by such pirate, or who discourages others from defending the ship, if by reason thereof the ship falls into the hands of such pirate.

### TITLE III.

#### OFFENCES AGAINST THE ADMINISTRATION OF LAW AND JUSTICE.

##### PART IX.

##### CORRUPTION AND DISOBEDIENCE.

Judicial corruption.

**131.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who—

(a.) holding any judicial office, or being a member of Parliament or of a legislature, corruptly accepts or obtains, or agrees to accept, or attempts to obtain for himself or any other person, any money or valuable consideration, office, place, or employment on account of anything already done



done or omitted, or to be afterwards done or omitted, by him in his judicial capacity, or in his capacity as such member ; or

(b.) corruptly gives or offers to any such person or to any other person, any such bribe as aforesaid on account of any such act or omission.

**132.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who—

(a.) being a justice of the peace, peace officer, or public officer, employed in any capacity for the prosecution or detection or punishment of offenders, corruptly accepts or obtains, or agrees to accept or attempts to obtain for himself, or for any other person, any money or valuable consideration, office, place or employment, with the intent to interfere corruptly with the due administration of justice, or to procure or facilitate the commission of any crime, or to protect from detection or punishment any person having committed or intending to commit any crime ; or

(b.) corruptly gives or offers to any such officer as aforesaid any such bribe as aforesaid with any such intent.

Corruption of officers employed in prosecuting offenders.

**133.** Every one is guilty of an offence and liable to a fine of not less than one hundred dollars, and not exceeding one thousand dollars, and to imprisonment for a term not exceeding one year and not less than one month, and in default of payment of such fine to imprisonment for a further time not exceeding six months who—

(a.) makes any offer, proposal, gift, loan or promise, or who gives or offers any compensation or consideration, directly or indirectly, to any official or person in the employment of the Government, or to any member of his family, or to any person under his control, or for his benefit, with intent to obtain the assistance or influence of such official or person to promote either the procuring of any contract with the Government, for the performance of any work, the doing of any thing, or the furnishing of any goods, effects, food or materials, the execution of any such contract, or the payment of the price, or consideration stipulated therein, or any part thereof, or of any aid or subsidy, payable in respect thereof ; or

(b.) being an official or person in the employment of the Government, directly or indirectly, accepts or agrees to accept, or allows to be accepted by any person under his control, or for his benefit, any such offer, proposal, gift, loan, promise, compensation or consideration ; or

(c.) in the case of tenders being called for by or on behalf of the Government, for the performance of any work, the doing of any thing, or the furnishing of any goods, effects, food or materials, directly or indirectly, by himself or by the agency of any other person on his behalf, with intent to obtain the contract therefor, either for himself or for any other

Frauds upon the Government.

other person, proposes to make, or makes, any gift, loan, offer or promise, or offers or gives any consideration or compensation whatsoever to any person tendering for such work or other service, or to any member of his family, or other person for his benefit, to induce such person to withdraw his tender for such work or other service, or to compensate or reward him for having withdrawn such tender; or

(d.) in case of so tendering, accepts or receives, directly or indirectly, or permits, or allows to be accepted or received by any member of his family, or by any other person under his control, or for his benefit, any such gift, loan, offer, promise, consideration or compensation, as a consideration or reward for withdrawing or for having withdrawn such tender; or

(e.) being an official or employee of the Government, receives, directly or indirectly, whether personally, or by or through any member of his family, or person under his control, or for his benefit, any gift, loan, promise, compensation or consideration whatsoever, either in money or otherwise, from any person whomsoever, for assisting or favouring any individual in the transaction of any business whatsoever with the Government, or who gives or offers any such gift, loan, promise, compensation or consideration; or

(f.) by reason of, or under the pretense of, possessing influence with the Government, or with any Minister or official thereof, demands, exacts or receives from any person, any compensation, fee or reward, for procuring from the Government the payment of any claim, or of any portion thereof, or for procuring or furthering the appointment of himself, or of any other person, to any office, place or employment, or for procuring or furthering the obtaining for himself or any other person, of any grant, lease or other benefit from the Government; or offers, promises or pays to such person, under the circumstances and for the causes aforesaid, or any of them, any such compensation, fee or reward; or

(g.) having dealings of any kind with the Government through any department thereof, pays any commission or reward, or within one year before or after such dealings, without the express permission in writing of the head of the department with which such dealings have been had, the proof of which permission shall lie upon him, makes any gift, loan, or promise of any money, matter or thing, to any employee or official of the Government, or to any member of the family of such employee or official, or to any person under his control, or for his benefit; or

(h.) being an employee or official of the Government, demands, exacts or receives, from such person, directly or indirectly, by himself, or by or through any other person for his benefit, or permits or allows any member of his family, or any person under his control, to accept or receive—

(i.)

- (i.) any such commission or reward ; or
- (ii.) within the said period of one year, without the express permission in writing of the head of the department with which such dealings have been had, the proof of which permission shall lie upon him, accepts or receives any such gift, loan or promise ; or
- (i.) having any contract with the Government for the performance of any work, the doing of anything, or the furnishing of any goods, effects, food or materials, and having or expecting to have any claim or demand against the Government by reason of such contract, either directly or indirectly, by himself or by any person on his behalf, subscribes, furnishes or gives, or promises to subscribe, furnish or give, any money or other valuable consideration for the purpose of promoting the election of any candidate, or of any number, class or party of candidates to a legislature or to Parliament, or with the intent in any way of influencing or affecting the result of a provincial or Dominion election.

2. If the value of the amount or thing paid, offered, given, loaned, promised, received or subscribed, as the case may be, exceeds one thousand dollars, the offender under this section is liable to any fine not exceeding such value.

3. The words " the Government " in this section include the Government of Canada and the Government of any province of Canada, as well as Her Majesty in the right of Canada or of any province thereof.

**134.** Every person convicted of an offence under the next preceding section shall be incapable of contracting with the Government, or of holding any contract or office with, from, or under it, or of receiving any benefit under any such contract. R.S.C., c. 173, ss. 22 and 23.

Other consequences of conviction for any such offence.

**135.** Every public officer is guilty of an indictable offence and liable to five years' imprisonment who, in the discharge of the duties of his office, commits any fraud or breach of trust affecting the public, whether such fraud or breach of trust would have been criminal or not if committed against a private person.

Breach of trust by public officer.

**136.** Every one is guilty of an indictable offence and liable to a fine not exceeding one thousand dollars and not less than one hundred dollars, and to imprisonment for a term not exceeding two years and not less than one month, and in default of payment of such fine to imprisonment for a further term not exceeding six months, who directly or indirectly,—

Corrupt practices in municipal affairs.

(a.) makes any offer, proposal, gift, loan, promise or agreement to pay or give any money or other material compensation or consideration to any member of a municipal council, whether the same is to inure to his own advantage



or to the advantage of any other person, for the purpose of inducing such member either to vote or to abstain from voting at any meeting of the council of which he is a member or at any meeting of a committee of such council, in favour of or against any measure, motion, resolution or question submitted to such council or committee; or

(b.) makes any offer, proposal, gift, loan, promise or agreement to pay or give any money or other material compensation or consideration to any member or to any officer of a municipal council for the purpose of inducing him to aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person; or

(c.) makes any offer, proposal, gift, loan, promise or agreement to pay or give any money or other material compensation or consideration to any officer of a municipal council for the purpose of inducing him to perform or abstain from performing, or to aid in procuring or preventing the performance of, any official act; or

(d.) being a member or officer of a municipal council, accepts or consents to accept any such offer, proposal, gift, loan, promise, agreement, compensation or consideration as is in this section before mentioned; or in consideration thereof, votes or abstains from voting in favour of or against any measure, motion, resolution or question, or performs or abstains from performing any official act; or

(e.) attempts by any threat, deceit, suppression of the truth or other unlawful means to influence any member of a municipal council in giving or withholding his vote in favour of or against any measure, motion, resolution or question, or in not attending any meeting of the municipal council of which he is a member, or of any committee thereof; or

(f.) attempts by any such means as in the next preceding paragraph mentioned to influence any member or any officer of a municipal council to aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person, or to perform or abstain from performing, or to aid in procuring or preventing the performance of, any official act. 52 V., c. 42, s. 2.

Selling office,  
appointment,  
&c.

**137.** Every one is guilty of an indictable offence who, directly or indirectly—

(a.) sells or agrees to sell any appointment to or resignation of any office, or any consent to any such appointment or resignation, or receives, or agrees to receive, any reward or profit from the sale thereof; or

(b.) purchases or gives any reward or profit for the purchase of any such appointment, resignation or consent, or agrees or promises to do so.

Every one who commits any such offence as aforesaid, in addition to any other penalty thereby incurred forfeits any right



right which he may have in the office and is disabled for life from holding the same.

2. Every one is guilty of an indictable offence who, directly or indirectly—

(a.) receives or agrees to receive any reward or profit for any interest, request or negotiation about any office, or under pretense of using any such interest, making any such request or being concerned in any such negotiation; or

(b.) gives or procures to be given any profit or reward, or makes or procures to be made any agreement for the giving of any profit or reward, for any such interest, request or negotiation as aforesaid; or

(c.) solicits, recommends or negotiates in any manner as to any appointment to or resignation of any office in expectation of any reward or profit; or

(d.) keeps any office or place for transacting or negotiating any business relating to vacancies in, or the sale or purchase of, or appointment to or resignation of offices.

The word "office" in this section includes every office in the gift of the Crown or of any officer appointed by the Crown, and all commissions, civil, naval and military, and all places or employments in any public department or office whatever, and all deputations to any such office and every participation in the profits of any office or deputation.

**138.** Every one is guilty of an indictable offence and liable to one year's imprisonment who, without lawful excuse, disobeys any Act of the Parliament of Canada or of any legislature in Canada by wilfully doing any act which it forbids, or omitting to do any act which it requires to be done, unless some penalty or other mode of punishment is expressly provided by law.

Disobedience  
to a statute.

**139.** Every one is guilty of an indictable offence and liable to one year's imprisonment who, without lawful excuse, disobeys any lawful order other than for the payment of money made by any court of justice, or by any person or body of persons authorized by any statute to make or give such order, unless some penalty is imposed, or other mode of proceeding is expressly provided, by law.

Disobedience  
to orders of  
court.

**140.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, being a sheriff, deputy-sheriff, mayor, or other head officer, justice of the peace, or other magistrate, or other peace officer, of any county, city, town, or district, having notice that there is a riot within his jurisdiction, without reasonable excuse omits to do his duty in suppressing such riot.

Neglect of  
peace officer  
to suppress  
riot.

**141.** Every one is guilty of an indictable offence and liable to one year's imprisonment who, having reasonable notice that he is required to assist any sheriff, deputy-sheriff, mayor,

Neglect to aid  
peace officer  
in suppressing  
riot.

mayor, or other head officer, justice of the peace, magistrate, or peace officer in suppressing any riot, without reasonable excuse omits so to do.

Neglect to aid peace officer in arresting offenders.

**142.** Every one is guilty of an indictable offence and liable to six months' imprisonment who, having reasonable notice that he is required to assist any sheriff, deputy-sheriff, mayor or other head officer, justice of the peace, magistrate, or peace officer, in the execution of his duty in arresting any person, or in preserving the peace, without reasonable excuse omits so to do.

Misconduct of officers intrusted with execution of writs.

**143.** Every one is guilty of an indictable offence and liable to a fine and imprisonment, who, being a sheriff, deputy-sheriff, coroner, elisor, bailiff, constable or other officer intrusted with the execution of any writ, warrant or process, wilfully misconducts himself in the execution of the same, or wilfully, and without the consent of the person in whose favour the writ, warrant or process was issued, makes any false return thereto. R.S.C., c. 173, s. 29.

Obstructing public or peace officer in the execution of his duty.

**144.** Every one is guilty of an indictable offence and liable to ten years' imprisonment who resists or wilfully obstructs any public officer in the execution of his duty or any person acting in aid of such officer.

2. Every one is guilty of an offence and liable on indictment to two years' imprisonment, and on summary conviction before two justices of the peace to six months' imprisonment with hard labour, or to a fine of one hundred dollars, who resists or wilfully obstructs--

(a.) any peace officer in the execution of his duty or any person acting in aid of any such officer;

(b.) any person in the lawful execution of any process against any lands or goods or in making any lawful distress or seizure. R.S.C., c. 162, s. 34.

## PART X.

### MISLEADING JUSTICE.

Perjury defined.

**145.** Perjury is an assertion as to a matter of fact, opinion, belief or knowledge, made by a witness in a judicial proceeding as part of his evidence, upon oath or affirmation, whether such evidence is given in open court, or by affidavit or otherwise, and whether such evidence is material or not, such assertion being known to such witness to be false, and being intended by him to mislead the court, jury, or person holding the proceeding. Evidence in this section includes evidence given on the *voir dire* and evidence given before a grand jury.

2. Every person is a witness within the meaning of this section who actually gives his evidence, whether he was competent to be a witness or not, and whether his evidence was admissible or not.

3. Every proceeding is judicial within the meaning of this section which is held in or under the authority of any court of justice, or before a grand jury, or before either the Senate or House of Commons of Canada, or any committee of either the Senate or House of Commons, or before any Legislative Council, Legislative Assembly or House of Assembly or any committee thereof, empowered by law to administer an oath, or before any justice of the peace, or any arbitrator or umpire, or any person or body of persons authorized by law or by any statute in force for the time being to make an inquiry and take evidence therein upon oath, or before any legal tribunal by which any legal right or liability can be established, or before any person acting as a court, justice or tribunal, having power to hold such judicial proceeding, whether duly constituted or not, and whether the proceeding was duly instituted or not before such court or person so as to authorize it or him to hold the proceeding, and although such proceeding was held in a wrong place or was otherwise invalid.

4. Subornation of perjury is counselling or procuring a person to commit any perjury which is actually committed.

**146.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who commits perjury or subornation of perjury. Punishment of perjury.

2. If the crime is committed in order to procure the conviction of a person for any crime punishable by death, or imprisonment for seven years or more, the punishment may be imprisonment for life. R.S.C., c. 154, s. 1.

**147.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being required or authorized by law to make any statement on oath, affirmation or solemn declaration, thereupon makes a statement which would amount to perjury if made in a judicial proceeding. False oaths.

**148.** Every one is guilty of perjury who—  
(a.) having taken or made any oath, affirmation, solemn declaration or affidavit where by any Act or law in force in Canada, or in any province of Canada, it is required or permitted that facts, matters or things be verified, or otherwise assured or ascertained by or upon the oath, affirmation, declaration or affidavit of any person, wilfully and corruptly, upon such oath, affirmation, declaration or affidavit, deposes, swears to or makes any false statement as to any such fact, matter or thing; or False statement, wilful omission in affidavit, &c.

(b.)

(b.) knowingly, wilfully and corruptly, upon oath, affirmation, or solemn declaration, affirms, declares, or deposes to the truth of any statement for so verifying, assuring or ascertaining any such fact, matter or thing, or purporting so to do, or knowingly, wilfully and corruptly takes, makes, signs or subscribes any such affirmation, declaration or affidavit, as to any such fact, matter or thing,—such statement, affidavit, affirmation or declaration being untrue, in the whole or any part thereof. R.S.C., c. 154, s. 2.

Making false affidavit out of province in which it is used.

**149.** Every person who wilfully and corruptly makes any false affidavit, affirmation or solemn declaration, out of the province in which it is to be used but within Canada, before any person authorized to take the same, for the purpose of being used in any province of Canada, is guilty of perjury in like manner as if such false affidavit, affirmation or declaration were made before a competent authority in the province in which it is used or intended to be used. R.S.C., c. 154, s. 3.

False statements.

**150.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, upon any occasion on which he is permitted by law to make any statement or declaration before any officer authorized by law to permit it to be made before him, or before any notary public to be certified by him as such notary, makes a statement which would amount to perjury if made on oath in a judicial proceeding.

Fabricating evidence.

**151.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, with intent to mislead any court of justice or person holding any such judicial proceeding as aforesaid, fabricates evidence by any means other than perjury or subornation of perjury.

Conspiring to bring false accusations.

**152.** Every one is guilty of an indictable offence who conspires to prosecute any person for any alleged offence, knowing such person to be innocent thereof, and shall be liable to the following punishment :

(a.) To imprisonment for fourteen years if such person might, upon conviction for the alleged offence, be sentenced to death or imprisonment for life ;

(b.) To imprisonment for ten years if such person might, upon conviction for the alleged offence, be sentenced to imprisonment for any term less than life.

Administering oaths without authority.

**153.** Every justice of the peace or other person who administers, or causes or allows to be administered, or receives or causes or allows to be received any oath or affirmation touching any matter or thing whereof such justice or other person has not jurisdiction or cognizance by some law in force at the time being, or authorized or required by



by any such law, is guilty of an indictable offence and liable to a fine not exceeding fifty dollars, or to imprisonment for any term not exceeding three months.

2. Nothing herein contained shall be construed to extend to any oath or affirmation before any justice in any matter or thing touching the preservation of the peace, or the prosecution, trial or punishment of any offence, or to any oath or affirmation required or authorized by any law of Canada, or by any law of the province wherein such oath or affirmation is received or administered, or is to be used, or to any oath or affirmation, which is required or authorized by the laws of any foreign country to give validity to an instrument in writing or to evidence designed or intended to be used in such foreign country. R.S.C., c. 141, s. 1.

**154.** Every one is guilty of an indictable offence and liable to two years' imprisonment who—

Corrupting  
juries and  
witnesses.

(a.) dissuades or attempts to dissuade any person by threats, bribes or other corrupt means from giving evidence in any cause or matter, civil or criminal; or

(b.) influences or attempts to influence, by threats or bribes or other corrupt means, any jurymen in his conduct as such, whether such person has been sworn as a jurymen or not; or

(c.) accepts any such bribe or other corrupt consideration to abstain from giving evidence, or on account of his conduct as a jurymen; or

(d.) wilfully attempts in any other way to obstruct, pervert or defeat the course of justice. R.S.C., c. 173, s. 30.

**155.** Every one is guilty of an indictable offence and liable to a fine not exceeding the penalty compounded for, who, having brought, or under colour of bringing, an action against any person under any penal statute in order to obtain from him any penalty, compounds the said action without order or consent of the court, whether any offence has in fact been committed or not. R.S.C., c. 173, s. 31.

Compounding  
penal actions.

**156.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who corruptly takes any money or reward, directly or indirectly, under pretence or upon account of helping any person to recover any chattel, money, valuable security or other property which, by any indictable offence has been stolen, taken, obtained, extorted, converted or disposed of, unless he has used all due diligence to cause the offender to be brought to trial for the same. R.S.C., c. 164, s. 89.

Corruptly  
taking a  
reward for  
helping to re-  
cover stolen  
property  
without using  
diligence to  
bring offender  
to trial.

**157.** Every one is liable to a penalty of two hundred and fifty dollars for each offence, recoverable with costs by any person who sues for the same in any court of competent jurisdiction, who—

Unlawfully  
advertising a  
reward for  
return of  
stolen prop-  
erty.

(a.)

(a.) publicly advertises a reward for the return of any property which has been stolen or lost, and in such advertisement uses any words purporting that no questions will be asked ; or

(b.) makes use of any words in any public advertisement purporting that a reward will be given or paid for any property which has been stolen or lost, without seizing or making any inquiry after the person producing such property ; or

(c.) promises or offers in any such public advertisement to return to any pawnbroker or other person who advanced money by way of loan on, or has bought, any property stolen or lost, the money so advanced or paid, or any other sum of money for the return of such property ; or

(d.) prints or publishes any such advertisement. R.S.C., c. 164, s. 90.

Signing false declaration respecting execution of judgment of death.

**158.** Every one is guilty of an indictable offence and liable to two years' imprisonment, who knowingly and wilfully signs a false certificate or declaration when a certificate or declaration is required with respect to the execution of judgment of death on any prisoner. R.S.C., c. 181, s. 19.

## PART XI.

### ESCAPES AND RESCUES.

Being at large while under sentence of imprisonment.

**159.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, having been sentenced to imprisonment, is afterwards, and before the expiration of the term for which he was sentenced, at large within Canada without some lawful cause, the proof whereof shall lie on him.

Assisting escape of prisoners of war.

**160.** Every one is guilty of an indictable offence and liable to five years' imprisonment who knowingly and wilfully—

(a.) assists any alien enemy of Her Majesty, being a prisoner of war in Canada, to escape from any place in which he may be detained ; or

(b.) assists any such prisoner as aforesaid, suffered to be at large on his parole in Canada or in any part thereof, to escape from the place where he is at large on his parole.

Breaking prison.

**161.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, by force or violence, breaks any prison with intent to set at liberty himself or any other person confined therein on any criminal charge.

Attempting to break prison.

**162.** Every one is guilty of an indictable offence and liable to two years' imprisonment who attempts to break prison,

prison, or who forcibly breaks out of his cell, or makes any breach therein with intent to escape therefrom. R.S.C., c. 155, s. 5.

**163.** Every one is guilty of an indictable offence and liable to two years' imprisonment who—

Escape from custody after conviction or from prison.

(a.) having been convicted of any offence, escapes from any lawful custody in which he may be under such conviction; or

(b.) whether convicted or not, escapes from any prison in which he is lawfully confined on any criminal charge.

**164.** Every one is guilty of an indictable offence and liable to two years' imprisonment who being in lawful custody other than as aforesaid on any criminal charge, escapes from such custody.

Escape from lawful custody.

**165.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who—

Assisting escape in certain cases.

(a.) rescues any person or assists any person in escaping, or attempting to escape, from lawful custody, whether in prison or not, under sentence of death or imprisonment for life, or after conviction of, and before sentence for, or while in such custody upon a charge of any crime punishable with death or imprisonment for life; or

(b.) being a peace officer and having any such person in his lawful custody, or being an officer of any prison in which any such person is lawfully confined, voluntarily and intentionally permits him to escape therefrom.

**166.** Every one is guilty of an indictable offence and liable to five years' imprisonment who—

Assisting escape in other cases.

(a.) rescues any person, or assists any person in escaping, or attempting to escape, from lawful custody, whether in prison or not, under a sentence of imprisonment for any term less than life, or after conviction of, and before sentence for, or while in such custody upon a charge of any crime punishable with imprisonment for a term less than life; or

(b.) being a peace officer having any such person in his lawful custody, or being an officer of any prison in which such person is lawfully confined, voluntarily and intentionally permits him to escape therefrom.

**167.** Every one is guilty of an indictable offence and liable to two years' imprisonment who with intent to facilitate the escape of any prisoner lawfully imprisoned conveys, or causes to be conveyed, anything into any prison.

Aiding escape from prison.

**168.** Every one is guilty of an indictable offence and liable to two years' imprisonment, who knowingly and unlawfully,

Unlawfully procuring discharge of prisoner.

unlawfully, under colour of any pretended authority, directs or procures the discharge of any prisoner not entitled to be so discharged, and the person so discharged shall be held to have escaped. R.S.C., c. 155, s. 8.

How escaped  
prisoners shall  
be punished.

**169.** Every one who escapes from custody, shall, on being retaken, serve, in the prison to which he was sentenced, the remainder of his term unexpired at the time of his escape, in addition to the punishment which is awarded for such escape; and any imprisonment awarded for such offence may be to the penitentiary or prison from which the escape was made. R.S.C., c. 155, s. 11.

## TITLE IV.

### OFFENCES AGAINST RELIGION, MORALS AND PUBLIC CONVENIENCE.

#### PART XII.

#### OFFENCES AGAINST RELIGION.

Blasphemous  
libels.

**170.** Every one is guilty of an indictable offence and liable to one year's imprisonment who publishes any blasphemous libel.

2. Whether any particular published matter is a blasphemous libel or not is a question of fact. But no one is guilty of a blasphemous libel for expressing in good faith and in decent language, or attempting to establish by arguments used in good faith and conveyed in decent language, any opinion whatever upon any religious subject.

Obstructing  
officiating  
clergyman.

**171.** Every one is guilty of an indictable offence and liable to two years' imprisonment who—

(a.) by threats or force, unlawfully obstructs or prevents, or endeavours to obstruct or prevent, any clergyman or other minister in or from celebrating divine service, or otherwise officiating in any church, chapel, meeting-house, school-house or other place for divine worship, or in or from the performance of his duty in the lawful burial of the dead in any church-yard or other burial place. R.S.C., c. 156, s. 1.

Violence to  
officiating  
clergyman.

**172.** Every one is guilty of an indictable offence and liable to two years' imprisonment who strikes or offers any violence to, or upon any civil process, or under the pretense of executing any civil process, arrests any clergyman or other minister who is engaged in or, to the knowledge of the offender, is about to engage in, any of the rites or duties in the



the next preceding section mentioned, or 'who, to the knowledge of the offender, is going to perform the same, or returning from the performance thereof. R.S.C., c. 156, s. 1.

**173.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding fifty dollars and costs, and in default of payment to one month's imprisonment, who wilfully disturbs, interrupts or disquiets any assemblage of persons met for religious worship, or for any moral, social or benevolent purpose, by profane discourse, by rude or indecent behaviour, or by making a noise, either within the place of such meeting or so near it as to disturb the order or solemnity of the meeting. R.S.C., c. 156, s. 2.

Disturbing  
public wor-  
ship.

### PART XIII.

#### OFFENCES AGAINST MORALITY.

**174.** Every one is guilty of an indictable offence and liable to imprisonment for life who commits buggery, either with a human being or with any other living creature. R.S.C., c. 157, s. 1.

Unnatural  
offence.

**175.** Every one is guilty of an indictable offence and liable to ten years' imprisonment who attempts to commit the offence mentioned in the next preceding section. R.S.C., c. 157, s. 1.

Attempt to  
commit sodo-  
my.

**176.** Every parent and child, every brother and sister, and every grandparent and grandchild, who cohabit or have sexual intercourse with each other, shall each of them, if aware of their consanguinity, be deemed to have committed incest, and be guilty of an indictable offence and liable to fourteen years' imprisonment, and the male person shall also be liable to be whipped: Provided that, if the court or judge is of opinion that the female accused is a party to such intercourse only by reason of the restraint, fear or duress of the other party, the court or judge shall not be bound to impose any punishment on such person under this section. 53 V., c. 37, s. 8.

Incest.

**177.** Every one is guilty of an offence and liable, on summary conviction before two justices of the peace, to a fine of fifty dollars or to six months' imprisonment with or without hard labour, or to both fine and imprisonment, who wilfully—

Indecent acts.

(a.) in the presence of one or more persons does any indecent act in any place to which the public have or are permitted to have access; or

(b.)

(b.) does any indecent act in any place intending thereby to insult or offend any person. 53 V., c. 37, s. 6.

Acts of gross indecency.

**178.** Every male person is guilty of an indictable offence and liable to five years' imprisonment and to be whipped who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person. 53 V., c. 37, s. 5.

Publishing obscene matter.

**179.** Every one is guilty of an indictable offence and liable to two years' imprisonment who knowingly, without lawful justification or excuse—

(a.) publicly sells, or exposes for public sale or to public view, any obscene book, or other printed or written matter, or any picture, photograph, model or other object, tending to corrupt morals; or

(b.) publicly exhibits any disgusting object or any indecent show;

(c.) offers to sell, advertises, publishes an advertisement of or has for sale or disposal any medicine, drug or article intended or represented as a means of preventing conception or causing abortion.

2. No one shall be convicted of any offence in this section mentioned if he proves that the public good was served by the acts alleged to have been done.

3. It shall be a question of law whether the occasion of the sale, publishing, or exhibition is such as might be for the public good, and whether there is evidence of excess beyond what the public good requires in the manner, extent or circumstances in, to or under which the sale, publishing or exhibition is made, so as to afford a justification or excuse therefor; but it shall be a question for the jury whether there is or is not such excess.

4. The motives of the seller, publisher or exhibitor shall in all cases be irrelevant.

Posting immoral books, &c.

**180.** Every one is guilty of an indictable offence and liable to two years' imprisonment who posts for transmission or delivery by or through the post—

(a.) any obscene or immoral book, pamphlet, newspaper, picture, print, engraving, lithograph, photograph or other publication, matter or thing of an indecent or immoral character; or

(b.) any letter upon the outside or envelope of which, or any post card or post band or wrapper upon which there are words, devices, matters or things of the character aforesaid; or

(c.) any letter or circular concerning schemes devised or intended to deceive and defraud the public or for the purpose of obtaining money under false pretenses. R.S.C., c. 35, s. 103.

**181.** Every one is guilty of an indictable offence and liable to two years' imprisonment who seduces and has illicit connection with any girl of previously chaste character, of or above the age of fourteen years and under the age of sixteen years. R.S.C., c. 157, s. 3 ; 53 V., c. 37, s. 3.

*Seduction of girls under sixteen.*

**182.** Every one, above the age of twenty-one years, is guilty of an indictable offence and liable to two years' imprisonment who, under promise of marriage, seduces and has illicit connection with any unmarried female of previously chaste character and under twenty-one years of age. 50-51 V., c. 48, s. 2.

*Seduction under promise of marriage.*

**183.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, being a guardian, seduces or has illicit connection with his ward, and every one who seduces or has illicit connection with any woman or girl of previously chaste character and under the age of twenty-one years who is in his employment in a factory, mill or workshop, or who, being in a common employment with him in such factory, mill or workshop, is, in respect of her employment or work in such factory, mill or workshop, under or in any way subject to his control or direction. 53 V., c. 37, s. 4.

*Seduction of a ward, servant, &c.*

**184.** Every one is guilty of an indictable offence and liable to a fine of four hundred dollars, or to one year's imprisonment, who, being the master or other officer or a seaman or other person employed on board of any vessel, while such vessel is in any water within the jurisdiction of the Parliament of Canada, under promise of marriage, or by threats, or by the exercise of his authority, or by solicitation, or the making of gifts or presents, seduces and has illicit connection with any female passenger.

*Seduction of females who are passengers on vessels.*

2. The subsequent intermarriage of the seducer and the seduced is, if pleaded, a good defence to any indictment for any offence against this or either of the two next preceding sections except in the case of a guardian seducing his ward. R.S.C., c. 65, s. 37.

**185.** Every one is guilty of an indictable offence, and liable to two years' imprisonment with hard labour, who—

*Unlawfully dealing women.*

(a.) procures, or attempts to procure, any girl or woman under twenty-one years of age, not being a common prostitute or of known immoral character, to have unlawful carnal connection, either within or without Canada, with any other person or persons ; or

(b.) inveigles or entices any such woman or girl to a house of ill-fame or assignation for the purpose of illicit intercourse or prostitution, or knowingly conceals in such house any such woman or girl so inveigled or enticed ; or

(c.)

(c.) procures, or attempts to procure, any woman or girl to become, either within or without Canada, a common prostitute; or

(d.) procures, or attempts to procure, any woman or girl to leave Canada with intent that she may become an inmate of a brothel elsewhere; or

(e.) procures any woman or girl to come to Canada from abroad with intent that she may become an inmate of a brothel in Canada; or

(f.) procures, or attempts to procure, any woman or girl to leave her usual place of abode in Canada, such place not being a brothel, with intent that she may become an inmate of a brothel within or without Canada; or

(g.) by threats or intimidation procures, or attempts to procure, any woman or girl to have any unlawful carnal connection, either within or without Canada; or

(h.) by false pretenses or false representations procures any woman or girl, not being a common prostitute or of known immoral character, to have any unlawful carnal connection, either within or without Canada; or

(i.) applies, administers to, or causes to be taken by any woman or girl any drug, intoxicating liquor, matter, or thing with intent to stupefy or overpower so as the reby to enable any person to have unlawful carnal connection with such woman or girl. 53 V., c. 39, s. 9; R.S.C., c. 157, s. 7.

Parent or guardian procuring defilement of girl.

**186.** Every one who, being the parent or guardian of any girl or woman,—

(a.) procures such girl or woman to have carnal connection with any man other than the procurer; or

(b.) orders, is party to, permits or knowingly receives the avails of the defilement, seduction or prostitution of such girl or woman,

is guilty of an indictable offence, and liable to fourteen years' imprisonment if such girl or woman is under the age of fourteen years, and if such girl or woman is of or above the age of fourteen years to five years' imprisonment. 53 V., c. 37, s. 9.

Householders permitting defilement of girls on their premises.

**187.** Every one who, being the owner and occupier of any premises, or having, or acting or assisting in, the management or control thereof, induces or knowingly suffers any girl of such age as in this section mentioned to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man, or generally, is guilty of an indictable offence and—

(a.) is liable to ten years' imprisonment if such girl is under the age of fourteen years; and

(b.) is liable to two years' imprisonment if such girl is of or above the age of fourteen and under the age of sixteen years. R.S.C., c. 157, s. 5; 53 V. c. 37, s. 3.



**188.** Every one is guilty of an indictable offence and liable to two years' imprisonment who conspires with any other person by false pretenses, or false representations or other fraudulent means, to induce any woman to commit adultery or fornication. Conspiracy to defile.

**189.** Every one is guilty of an indictable offence and liable to four years' imprisonment who unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of, any female idiot or imbecile, insane or deaf and dumb woman or girl, under circumstances which do not amount to rape but which prove that the offender knew, at the time of the offence, that the woman or girl was an idiot, or imbecile, or insane or deaf and dumb. R.S.C., c. 157, s. 3; 50-51 V., c. 48, s. 1. Carnally knowing idiots, &c.

**190.** Every one is guilty of an indictable offence and liable to a penalty not exceeding one hundred dollars and not less than ten dollars, or six months' imprisonment— Prostitution of Indian woman.

(a.) who, being the keeper of any house, tent or wigwam, allows or suffers any unenfranchised Indian woman to be or remain in such house, tent or wigwam, knowing or having probable cause for believing that such Indian woman is in or remains in such house, tent or wigwam with the intention of prostituting herself therein; or

(b.) who, being an Indian woman, prostitutes herself therein; or

(c.) who, being an unenfranchised Indian woman, keeps, frequents or is found in a disorderly house, tent or wigwam used for any such purpose.

2. Every person who appears, acts or behaves as master or mistress, or as the person who has the care or management, of any house, tent or wigwam in which any such Indian woman is or remains for the purpose of prostituting herself therein, is deemed to be the keeper thereof, notwithstanding he or she is not in fact the real keeper thereof. R.S.C., c. 43, s. 106; 50-51 V., c. 33, s. 11.

#### PART XVI.

#### NUISANCES.

**191.** A common nuisance is an unlawful act or omission to discharge a legal duty, which act or omission endangers the lives, safety, health, property or comfort of the public, or by which the public are obstructed in the exercise or enjoyment of any right common to all Her Majesty's subjects. Common nuisance defined.

Common nuisances which are criminal.

**192.** Every one is guilty of an indictable offence and liable to one year's imprisonment or a fine who commits any common nuisance which endangers the lives, safety or health of the public, or which occasions injury to the person of any individual.

Common nuisances which are not criminal.

**193.** Any one convicted upon any indictment or information for any common nuisance other than those mentioned in the preceding section, shall not be deemed to have committed a criminal offence; but all such proceedings or judgments may be taken and had as heretofore to abate or remedy the mischief done by such nuisance to the public right.

Selling things unfit for food.

**194.** Every one is guilty of an indictable offence and liable to one year's imprisonment who knowingly and wilfully exposes for sale, or has in his possession with intent to sell, for human food articles which he knows to be unfit for human food.

2. Every one who is convicted of this offence after a previous conviction for the same crime shall be liable to two years' imprisonment.

Common bawdy-house defined.

**195.** A common bawdy-house is a house, room, set of rooms or place of any kind kept for purposes of prostitution.

Common gaming-house defined.

**196.** A common gaming-house is—

(a.) a house, room or place kept by any person for gain, to which persons resort for the purpose of playing at any game of chance; or

(b.) a house, room or place kept or used for playing therein at any game of chance, or any mixed game of chance and skill, in which—

(i.) a bank is kept by one or more of the players exclusively of the others; or

(ii.) in which any game is played the chances of which are not alike favourable to all the players, including among the players the banker or other person by whom the game is managed, or against whom the game is managed, or against whom the other players stake, play or bet.

Common betting-house defined.

**197.** A common betting-house is a house, office, room or other place—

(a.) opened, kept or used for the purpose of betting between persons resorting thereto and—

(i.) the owner, occupier, or keeper thereof;

(ii.) any person using the same;

(iii.) any person procured or employed by, or acting for or on behalf of any such person;

(iv.) any person having the care or management, or in any manner conducting the business thereof; or

(b.)

(b.) opened, kept or used for the purpose of any money or valuable thing being received by or on behalf of any such person as aforesaid, as or for the consideration,

(i.) for any assurance or undertaking, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any horse-race or other race, fight, game or sport; or

(ii.) for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency.

**198.** Every one is guilty of an indictable offence and liable to one year's imprisonment who keeps any disorderly house, that is to say, any common bawdy-house, common gaming-house or common betting-house, as hereinbefore defined. Disorderly houses.

2. Any one who appears, acts, or behaves as master or mistress, or as the person having the care, government or management, of any disorderly house shall be deemed to be the keeper thereof, and shall be liable to be prosecuted and punished as such, although in fact he or she is not the real owner or keeper thereof.

**199.** Every one who plays or looks on while any other person is playing in a common gaming-house is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty not exceeding one hundred dollars and not less than twenty dollars, and in default of payment to two months' imprisonment. R.S.C., c. 158, s. 6. Playing or looking on in gaming-house.

**200.** Every one is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty not exceeding one hundred dollars, and to six months' imprisonment with or without hard labour who— Obstructing peace officer entering a gaming-house.

(a.) wilfully prevents any constable or other officer duly authorized to enter any disorderly house, as mentioned in section one hundred and ninety-eight, from entering the same or any part thereof; or

(b.) obstructs or delays any such constable or officer in so entering; or

(c.) by any bolt, chain or other contrivance secures any external or internal door of, or means of access to, any common gaming-house so authorized to be entered; or

(d.) uses any means or contrivance whatsoever for the purpose of preventing, obstructing or delaying the entry of any constable or officer, authorized as aforesaid, into any such disorderly house or any part thereof. R.S.C., c. 158, s. 7.

**201.** Every one is guilty of an indictable offence and liable to five years' imprisonment, and to a fine of five hundred dollars, who, with the intent to make gain or profit by the rise or fall in price of any stock of any incorporated or unincorporated company or undertaking, either in Canada or elsewhere, or of any goods, wares or merchandise— Gaming in stocks and merchandise.

(a.) without the *bonâ fide* intention of acquiring any such shares, goods, wares or merchandise, or of selling the same, as the case may be, makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the sale or purchase of any such shares of stock, goods, wares or merchandise; or

(b.) makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the sale or purchase of any such shares of stock, goods, wares or merchandise in respect of which no delivery of the thing sold or purchased is made or received, and without the *bonâ fide* intention to make or receive such delivery.

2. But it is not an offence if the broker of the purchaser receives delivery, on his behalf, of the article sold, notwithstanding that such broker retains or pledges the same as security for the advance of the purchase money or any part thereof.

3 Every office or place of business wherein is carried on the business of making or signing, or procuring to be made or signed, or negotiating or bargaining for the making or signing of such contracts of sale or purchase as are prohibited in this section is a common gaming-house, and every one who as principal or agent occupies, uses, manages or maintains the same is the keeper of a common gaming-house. 51 V., c. 42, ss. 1 and 3.

Habitually frequenting places where gaming in stocks is carried on.

**202.** Every one is guilty of an indictable offence and liable to one year's imprisonment who habitually frequents any office or place wherein the making or signing, or procuring to be made or signed, or the negotiating or bargaining for the making or signing, of such contracts of sale or purchase as are mentioned in the section next preceding is carried on. 51 V., c. 42, s. 1.

Gambling in public conveyances.

**203.** Every one is guilty of an indictable offence and liable to one year's imprisonment who—

(a.) in any railway car or steamboat, used as a public conveyance for passengers, by means of any game of cards, dice or other instrument of gambling, or by any device of like character, obtains from any other person any money, chattel, valuable security or property; or

(b.) attempts to commit such offence by actually engaging any person in any such game with intent to obtain money or other valuable thing from him.

2. Every conductor, master or superior officer in charge of, and every clerk or employee when authorized by the conductor or superior officer in charge of, any railway train or steamboat, station or landing place in or at which any such offence, as aforesaid, is committed or attempted, must, with or without warrant, arrest any person whom he has good reason to believe to have committed or attempted to commit the



the same, and take him before a justice of the peace, and make complaint of such offence on oath, in writing.

3. Every conductor, master or superior officer in charge of any such railway car or steamboat, who makes default in the discharge of any such duty is liable, on summary conviction, to a penalty not exceeding one hundred dollars and not less than twenty dollars.

4. Every company or person who owns or works any such railway car or steamboat must keep a copy of this section posted up in some conspicuous part of such railway car or steamboat.

5. Every company or person who makes default in the discharge of such duty is liable to a penalty not exceeding one hundred dollars and not less than twenty dollars. R.S.C., c. 160, ss. 1, 3 and 6.

**204.** Every one is guilty of an indictable offence, and liable to one year's imprisonment, and to a fine not exceeding one thousand dollars, who—

(a.) uses or knowingly allows any part of any premises under his control to be used for the purpose of recording or registering any bet or wager, or <sup>Betting and</sup> selling any pool; or

(b.) keeps, exhibits, or employs, or knowingly allows to be kept, exhibited or employed, in any part of any premises under his control, any device or apparatus for the purpose of recording any bet or wager or selling any pool; or

(c.) becomes the custodian or depositary of any money, property or valuable thing staked, wagered or pledged; or

(d.) records or registers any bet or wager, or sells any pool, upon the result—

(i.) of any political or municipal election;

(ii.) of any race;

(iii.) of any contest or trial of skill or endurance of man or beast.

2. The provisions of this section shall not extend to any person by reason of his becoming the custodian or depositary of any money, property or valuable thing staked, to be paid to the winner of any lawful race, sport, game, or exercise, or to the owner of any horse engaged in any lawful race, or to bets between individuals or made on the race course of an incorporated association during the actual progress of a race meeting. R.S.C., c. 159, s. 9.

**205.** Every one is guilty of an indictable offence and liable to two years' imprisonment and to a fine not exceeding two thousand dollars, who—

(a.) makes, prints, advertises or publishes, or causes or procures to be made, printed, advertised or published, any proposal, scheme or plan for advancing, lending, giving, selling or in any way disposing of any property, by lots, cards, tickets, or any mode of chance whatsoever; or

(b.)

(b.) sells, barter, exchanges or otherwise disposes of, or causes or procures, or aids or assists in, the sale, barter, exchange or other disposal of, or offers for sale, barter or exchange, any lot, card, ticket or other means or device for advancing, lending, giving, selling or otherwise disposing of any property, by lots, tickets or any mode of chance whatsoever.

2. Every one is guilty of an offence and liable on summary conviction to a penalty of twenty dollars, who buys, takes or receives any such lot, ticket or other device as aforesaid.

3. Every sale, loan, gift, barter or exchange of any property, by any lottery, ticket, card or other mode of chance depending upon or to be determined by chance or lot, is void, and all such property so sold, lent, given, bartered or exchanged, is liable to be forfeited to any person who sues for the same by action or information in any court of competent jurisdiction.

4. No such forfeiture shall affect any right or title to such property acquired by any *bonâ fide* purchaser for valuable consideration, without notice.

5. This section includes the printing or publishing, or causing to be printed or published, of any advertisement, scheme, proposal or plan of any foreign lottery, and the sale or offer for sale of any ticket, chance or share, in any such lottery, or the advertisement for sale of such ticket, chance or share.

6. This section does not apply to—

(a.) the division by lot or chance of any property by joint tenants or tenants in common, or persons having joint interests (*droits indivis*) in any such property ; or

(b.) raffles for prizes of small value at any bazaar held for any charitable object, if permission to hold the same has been obtained from the city or other municipal council, or from the mayor, reeve or other chief officer of the city, town or other municipality, wherein such bazaar is held and the articles raffled for thereat have first been offered for sale and none of them are of a value exceeding fifty dollars ; or

(c.) any distribution by lot among the members or ticket holders of any incorporated society established for the encouragement of art, of any paintings, drawings or other work of art produced by the labour of the members of, or published by or under the direction of, such incorporated society ;

(d.) the *Crédit Foncier du Bas-Canada*, or to the *Crédit Foncier Franco-Canadien*.

Misconduct in respect to human remains.

**206.** Every one is guilty of an indictable offence and liable to five years' imprisonment who—

(a.) without lawful excuse, neglects to perform any duty either imposed upon him by law or undertaken by him with

with reference to the burial of any dead human body or human remains; or

(b.) improperly or indecently interferes with or offers any indignity to any dead human body or human remains, whether buried or not.

#### PART XV.

#### VAGRANCY.

**207.** Every one is a loose, idle or disorderly person or <sup>Vagrant defined.</sup> vagrant who—

(a.) not having any visible means of maintaining himself lives without employment;

(b.) being able to work and thereby or by other means to maintain himself and family wilfully refuses or neglects to do so;

(c.) openly exposes or exhibits in any street, road, highway or public place, any indecent exhibition;

(d.) without a certificate signed, within six months, by a priest, clergyman or minister of the Gospel, or two justices of the peace, residing in the municipality where the alms are being asked, that he or she is a deserving object of charity, wanders about and begs, or goes about from door to door, or places himself or herself in any street, highway, passage or public place to beg or receive alms;

(e.) loiters on any street, road, highway or public place, and obstructs passengers by standing across the footpath, or by using insulting language, or in any other way;

(f.) causes a disturbance in or near any street, road, highway or public place, by screaming, swearing or singing, or by being drunk, or by impeding or incommoding peaceable passengers;

(g.) by discharging firearms, or by riotous or disorderly conduct in any street or highway, wantonly disturbs the peace and quiet of the inmates of any dwelling-house near such street or highway;

(h.) tears down or defaces signs, breaks windows, or doors or door plates, or the walls of houses, roads or gardens, or destroys fences;

(i.) being a common prostitute or night walker, wanders in the fields, public streets or highways, lanes or places of public meeting or gathering of people, and does not give a satisfactory account of herself;

(j.) is a keeper or inmate of a disorderly house, bawdy-house or house of ill-fame, or house for the resort of prostitutes;

(k.) is in the habit of frequenting such houses and does not give a satisfactory account of himself or herself; or

(l.) having no peaceable profession or calling to maintain himself by, for the most part supports himself by gaming

gaming or crime, or by the avails of prostitution. R.S.C., c. 157, s. 8.

Penalty for  
vagrancy.

**208.** Every loose, idle or disorderly person or vagrant is liable, on summary conviction before two justices of the peace, to a fine not exceeding fifty dollars or to imprisonment, with or without hard labour, for any term not exceeding six months, or to both. R.S.C., c. 157, s. 8.

## TITLE V.

### OFFENCES AGAINST THE PERSON AND REPUTATION.

#### PART XVI.

#### DUTIES TENDING TO THE PRESERVATION OF LIFE.

Duty to provide the necessities of life.

**209.** Every one who has charge of any other person unable, by reason either of detention, age, sickness, insanity or any other cause, to withdraw himself from such charge, and unable to provide himself with the necessities of life, is, whether such charge is undertaken by him under any contract, or is imposed upon him by law, or by reason of his unlawful act, under a legal duty to supply that person with the necessities of life, and is criminally responsible for omitting, without lawful excuse, to perform such duty if the death of such person is caused, or if his life is endangered, or his health has been or is likely to be permanently injured, by such omission.

Duty of head of family to provide necessities.

**210.** Every one who as parent, guardian or head of a family is under a legal duty to provide necessities for any child under the age of sixteen years is criminally responsible for omitting, without lawful excuse, to do so while such child remains a member of his or her household, whether such child is helpless or not, if the death of such child is caused, or if his life is endangered or his health is or is likely to be permanently injured, by such omission.

2. Every one who is under a legal duty to provide necessities for his wife, is criminally responsible for omitting, without lawful excuse so to do, if the death of his wife is caused, or if her life is endangered, or her health is or is likely to be permanently injured by such omission.

Duty of masters to provide necessities.

**211.** Every one who, as master or mistress, has contracted to provide necessary food, clothing or lodging for any servant or apprentice under the age of sixteen years is under a legal duty to provide the same, and is criminally responsible for omitting, without lawful excuse, to perform such duty, if  
the



the death of such servant or apprentice is caused, or if his life is endangered, or his health has been or is likely to be permanently injured, by such omission.

**212.** Every one who undertakes (except in case of necessity) to administer surgical or medical treatment, or to do any other lawful act the doing of which is or may be dangerous to life, is under a legal duty to have and to use reasonable knowledge, skill and care in doing any such act, and is criminally responsible for omitting, without lawful excuse, to discharge that duty if death is caused by such omission.

Duty of persons doing dangerous acts.

**213.** Every one who has in his charge or under his control anything whatever, whether animate or inanimate, or who erects, makes or maintains anything whatever which, in the absence of precaution or care, may endanger human life, is under a legal duty to take reasonable precautions against, and use reasonable care to avoid, such danger, and is criminally responsible for the consequences of omitting, without lawful excuse, to perform such duty.

Duty of persons in charge of dangerous things.

**214.** Every one who undertakes to do any act, the omission to do which is or may be dangerous to life, is under a legal duty to do that act, and is criminally responsible for the consequences of omitting, without lawful excuse, to perform that duty.

Duty to avoid omissions dangerous to life.

**215.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, being bound to perform any duty specified in sections two hundred and nine, two hundred and ten and two hundred and eleven without lawful excuse neglects or refuses to do so.

Neglecting duty to provide necessities.

**216.** Every one is guilty of an indictable offence and liable to three years' imprisonment who unlawfully abandons or exposes any child under the age of two years, whereby its life is endangered, or its health is permanently injured.

Abandoning children under two years of age.

2. The words "abandon" and "expose" include a wilful omission to take charge of the child on the part of a person legally bound to do so, and any mode of dealing with it calculated to leave it exposed to risk without protection. R.S.C., c. 162, s. 20.

**217.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, being legally liable as master or mistress to provide for any apprentice or servant, unlawfully does, or causes to be done, any bodily harm to any such apprentice or servant so that the life of such apprentice or servant is endangered or the health of such apprentice or servant has been, or is likely to be, permanently injured. R.S.C., c. 62, s. 19.

Causing bodily harm to apprentices or servants.

## PART XVII.

## HOMICIDE.

Homicide  
defined.

**218.** Homicide is the killing of a human being by another, directly or indirectly, by any means whatsoever.

When a child  
becomes a  
human being.

**219.** A child becomes a human being within the meaning of this Act when it has completely proceeded, in a living state, from the body of its mother, whether it has breathed or not, whether it has an independent circulation or not, and whether the navel string is severed or not. The killing of such child is homicide when it dies in consequence of injuries received before, during or after birth.

Culpable  
homicide.

**220.** Homicide may be either culpable or not culpable. Homicide is culpable when it consists in the killing of any person, either by an unlawful act or by an omission, without lawful excuse, to perform or observe any legal duty, or by both combined, or by causing a person, by threats or fear of violence, or by deception, to do an act which causes that person's death, or by wilfully frightening a child or sick person.

2. Culpable homicide is either murder or manslaughter.
3. Homicide which is not culpable is not an offence.

Procuring  
death by false  
evidence.

**221.** Procuring by false evidence the conviction and death of any person by the sentence of the law shall not be deemed to be homicide.

Death must be  
within a year  
and a day.

**222.** No one is criminally responsible for the killing of another unless the death take place within a year and a day of the cause of death. The period of a year and a day shall be reckoned inclusive of the day on which the last unlawful act contributing to the cause of death took place. Where the cause of death is an omission to fulfil a legal duty the period shall be reckoned inclusive of the day on which such omission ceased. Where death is in part caused by an unlawful act and in part by an omission, the period shall be reckoned inclusive of the day on which the last unlawful act took place or the omission ceased, whichever happened last.

Killing by  
influence on  
the mind.

**223.** No one is criminally responsible for the killing of another by any influence on the mind alone, nor for the killing of another by any disorder or disease arising from such influence, save in either case by wilfully frightening a child or sick person.

Acceleration  
of death.

**224.** Every one who, by any act or omission, causes the death of another kills that person, although the effect of  
the

the bodily injury caused to such other person be merely to accelerate his death while labouring under some disorder or disease arising from some other cause.

**225.** Every one who, by any act or omission, causes the death of another kills that person, although death from that cause might have been prevented by resorting to proper means. Causing death which might have been prevented.

**226.** Every one who causes a bodily injury, which is of itself of a dangerous nature to any person, from which death results kills that person, although the immediate cause of death be treatment proper or improper applied in good faith. Causing injury the treatment of which causes death.

#### PART XVIII.

#### MURDER, MANSLAUGHTER, &c.

**227.** Culpable homicide is murder in each of the following cases : Definition of murder.

(a.) If the offender means to cause the death of the person killed ;

(b.) If the offender means to cause to the person killed any bodily injury which is known to the offender to be likely to cause death, and is reckless whether death ensues or not ;

(c.) If the offender means to cause death or, being so reckless as aforesaid, means to cause such bodily injury as aforesaid to one person, and by accident or mistake kills another person, though he does not mean to hurt the person killed ;

(d.) If the offender, for any unlawful object, does an act which he knows or ought to have known to be likely to cause death, and thereby kills any person, though he may have desired that his object should be effected without hurting any one.

**228.** Culpable homicide is also murder in each of the following cases, whether the offender means or not death to ensue, or knows or not that death is likely to ensue : Further definition of murder.

(a.) If he means to inflict grievous bodily injury for the purpose of facilitating the commission of any of the offences in this section mentioned, or the flight of the offender upon the commission or attempted commission thereof, and death ensues from such injury ; or

(b.) If he administers any stupefying or overpowering thing for either of the purposes aforesaid, and death ensues from the effects thereof ; or

(c.)

(c.) If he by any means wilfully stops the breath of any person for either of the purposes aforesaid, and death ensues from such stopping of the breath.

2. The following are the offences in this section referred to :—Treason and the other offences mentioned in Part IV. of this Act, piracy and offences deemed to be piracy, escape or rescue from prison or lawful custody, resisting lawful apprehension, murder, rape, forcible abduction, robbery, burglary, arson.

Provocation.

**229.** Culpable homicide, which would otherwise be murder, may be reduced to manslaughter if the person who causes death does so in the heat of passion caused by sudden provocation.

2. Any wrongful act or insult, of such a nature as to be sufficient to deprive an ordinary person of the power of self-control, may be provocation if the offender acts upon it on the sudden, and before there has been time for his passion to cool.

3. Whether or not any particular wrongful act or insult amounts to provocation, and whether or not the person provoked was actually deprived of the power of self-control by the provocation which he received, shall be questions of fact. No one shall be held to give provocation to another by doing that which he had a legal right to do, or by doing anything which the offender incited him to do in order to provide the offender with an excuse for killing or doing bodily harm to any person.

4. An arrest shall not necessarily reduce the offence from murder to manslaughter because the arrest was illegal, but if the illegality was known to the offender it may be evidence of provocation.

Manslaughter.

**230.** Culpable homicide, not amounting to murder, is manslaughter.

Punishment of murder.

**231.** Every one who commits murder is guilty of an indictable offence and shall, on conviction thereof, be sentenced to death. R.S.C., c. 162, s. 2.

Attempts to commit murder.

**232.** Every one is guilty of an indictable offence and liable to imprisonment for life, who does any of the following things with intent to commit murder ; that is to say—

(a.) administers any poison or other destructive thing to any person, or causes any such poison or destructive thing to be so administered or taken, or attempts to administer it, or attempts to cause it to be so administered or taken ; or

(b.) by any means whatever wounds or causes any grievous bodily harm to any person ; or

(c.) shoots at any person, or, by drawing a trigger or in any other manner, attempts to discharge at any person any kind of loaded arms ; or

(d.)



(d.) attempts to drown, suffocate, or strangle any person ;  
or

(e.) destroys or damages any building by the explosion of any explosive substance ; or

(f.) sets fire to any ship or vessel or any part thereof, or any part of the tackle, apparel or furniture thereof, or to any goods or chattels being therein ; or

(g.) casts away or destroys any vessel ; or

(h.) by any other means attempts to commit murder.  
R.S.C., c. 162, s. 12.

**233.** Every one is guilty of an indictable offence and liable to ten years' imprisonment who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to kill or murder any person. R.S.C., c. 173, s. 7. Threats to murder.

**234.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment, who— Conspiracy to murder.

(a.) conspires or agrees with any person to murder or to cause to be murdered any other person, whether the person intended to be murdered is a subject of Her Majesty or not, or is within Her Majesty's dominions or not ; or

(b.) counsels or attempts to procure any person to murder such other person anywhere, although such person is not murdered in consequence of such counselling or attempted procurement. R.S.C., c. 162, s. 3.

**235.** Every one is guilty of an indictable offence, and liable to imprisonment for life, who is an accessory after the fact to murder. R.S.C., c. 162, s. 4. Accessory after the fact to murder.

**236.** Every one who commits manslaughter is guilty of an indictable offence, and liable to imprisonment for life. R.S.C., c. 162, s. 5. Punishment of manslaughter.

**237.** Every one is guilty of an indictable offence and liable to imprisonment for life who counsels or procures any person to commit suicide, actually committed in consequence of such counselling or procurement, or who aids or abets any person in the commission of suicide. Aiding and abetting suicide.

**238.** Every one who attempts to commit suicide is guilty of an indictable offence and liable to two years' imprisonment. Attempt to commit suicide.

**239.** Every woman is guilty of an indictable offence who, with either of the intents hereinafter mentioned, being with child and being about to be delivered, neglects to provide reasonable assistance in her delivery, if the child is permanently injured thereby, or dies, either just before, or during, or shortly after birth, unless she proves that such death or permanent injury was not caused by such neglect,  
or

or by any wrongful act to which she was a party, and is liable to the following punishment:

(a.) If the intent of such neglect be that the child shall not live, to imprisonment for life;

(b.) If the intent of such neglect be to conceal the fact of her having had a child, to imprisonment for seven years.

Concealing  
dead body  
of child.

**240.** Every one is guilty of an indictable offence, and liable to two years' imprisonment, who disposes of the dead body of any child in any manner, with intent to conceal the fact that its mother was delivered of it, whether the child died before, or during, or after birth. R.S.C., c. 162, s. 49.

#### PART XIX.

#### BODILY INJURIES, AND ACTS AND OMISSIONS CAUSING DANGER TO THE PERSON.

Wounding  
with intent.

**241.** Every one is guilty of an indictable offence and liable to imprisonment for life who, with intent to maim, disfigure or disable any person, or to do some other grievous bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, unlawfully by any means wounds or causes any grievous bodily harm to any person, or shoots at any person, or, by drawing a trigger, or in any other manner, attempts to discharge any kind of loaded arms at any person. R.S.C., c. 162, s. 13.

Wounding.

**242.** Every one is guilty of an indictable offence and liable to three years' imprisonment who unlawfully wounds or inflicts any grievous bodily harm upon any other person, either with or without any weapon or instrument. R.S.C., c. 162, s. 14.

Shooting at  
Her Majesty's  
vessels;  
wounding  
customs or  
inland revenue  
officers.

**243.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who wilfully--

(a.) shoots at any vessel belonging to Her Majesty or in the service of Canada; or

(b.) maims or wounds any public officer engaged in the execution of his duty or any person acting in aid of such officer. R.S.C., c. 32, s. 213; c. 34, s. 99.

Disabling or  
administering  
drugs with  
intent to com-  
mit an indict-  
able offence.

**244.** Every one is guilty of an indictable offence and liable to imprisonment for life and to be whipped, who with intent thereby to enable himself or any other person to commit, or with intent thereby to assist any other person in committing any indictable offence--

(a.) by any means whatsoever, attempts to choke, suffocate or strangle any other person, or by any means calculated to choke, suffocate or strangle, attempts to render any other person insensible, unconscious or incapable of resistance; or  
(b.)

(b.) unlawfully applies or administers to, or causes to be taken by, or attempts to apply or administer to, or attempts or causes to be administered to or taken by, any person, any chloroform, laudanum or other stupefying or overpowering drug, matter or thing. R.S.C., c. 162, ss. 15 and 16.

**245.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who unlawfully administers to, or causes to be administered to or taken by any other person, any poison or other destructive or noxious thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm. R.S.C., c. 162, s. 17. Administering poison so as to endanger life.

**246.** Every one is guilty of an indictable offence and liable to three years' imprisonment who unlawfully administers to, or causes to be administered to or taken by, any other person any poison or other destructive or noxious thing, with intent to injure, aggrieve or annoy such person. R.S.C., c. 162, s. 18. Administering poison with intent to injure.

**247.** Every one is guilty of an indictable offence and liable to imprisonment for life who unlawfully and by the explosion of any explosive substance burns, maims, disfigures, disables or does any grievous bodily harm to any person. R.S.C., c. 162, s. 21. Causing bodily injuries by explosives.

**248.** Every one is guilty of an indictable offence and liable, in case (a.) to imprisonment for life and in case (b.) to fourteen years' imprisonment, who unlawfully— Attempting to cause bodily injuries by explosives.

(a.) with intent to burn, maim, disfigure or disable any person, or to do some grievous bodily harm to any person, whether any bodily harm is effected or not—

(i.) causes any explosive substance to explode;

(ii.) sends or delivers to, or causes to be taken or received by, any person any explosive substance, or any other dangerous or noxious thing;

(iii.) puts or lays at any place, or casts or throws at or upon, or otherwise applies to, any person any corrosive fluid, or any destructive or explosive substance;

(b.) places or throws in, into, upon, against or near any building, ship or vessel any explosive substance, with intent to do any bodily injury to any person, whether or not any explosion takes place and whether or not any bodily injury is effected. R.S.C., c. 162, ss. 22 and 23.

**249.** Every one is guilty of an indictable offence and liable to five years' imprisonment who sets or places, or causes to be set or placed, any spring-gun, man-trap, or other engine calculated to destroy human life or inflict grievous bodily harm, with the intent that the same or whereby the same may Setting spring-guns and man-traps.

may destroy, or inflict grievous bodily harm upon, any trespasser or other person coming in contact therewith.

2. Every one who knowingly and wilfully permits any such spring-gun, man-trap or other engine which has been set or placed by some other person, in any place which is in, or afterwards comes into, his possession or occupation, to continue so set or placed shall be deemed to have set or placed such gun, trap or engine with such intent as aforesaid.

3. This section does not extend to any gin or trap usually set or placed with the intent of destroying vermin or noxious animals. R.S.C., c. 162, s. 24.

Intentionally endangering the safety of persons on railways.

**250.** Every one is guilty of an indictable offence and liable to imprisonment for life who unlawfully—

(a.) with intent to injure or to endanger the safety of any person travelling or being upon any railway,

(i.) puts or throws upon or across such railway any wood, stone, or other matter or thing ;

(ii.) takes up, removes or displaces any rail, railway switch, sleeper or other matter or thing belonging to such railway, or injures or destroys any track, bridge or fence of such railway, or any portion thereof ;

(iii.) turns, moves or diverts any point or other machinery belonging to such railway ;

(iv.) makes or shows, hides or removes any signal or light upon or near to such railway ;

(v.) does or causes to be done any other matter or thing with such intent ; or

(b.) throws, or causes to fall or strike at, against, into or upon any engine, tender, carriage or truck used and in motion upon any railway any wood, stone or other matter or thing, with intent to injure or endanger the safety of any person being in or upon such engine, tender, carriage or truck, or in or upon any other engine, tender, carriage or truck of any train of which such first mentioned engine, tender, carriage or truck forms part. R.S.C., c. 162, ss. 25 and 26.

Negligently endangering the safety of persons on railways.

**251.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, by any unlawful act, or by any wilful omission or neglect of duty, endangers or causes to be endangered the safety of any person conveyed or being in or upon a railway, or aids or assists therein. R.S.C., c. 162, s. 27.

Negligently causing bodily injury to any person.

**252.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, by any unlawful act, or by doing negligently or omitting to do any act which it is his duty to do, causes grievous bodily injury to any other person. R.S.C., c. 162, s. 33.

Injuring persons by furious driving.

**253.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, having the charge of



of any carriage or vehicle, by wanton or furious driving, or racing or other wilful misconduct, or by wilful neglect, does or causes to be done any bodily harm to any person. R.S.C., c. 162, s. 28.

**254.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who prevents or impedes, or endeavours to prevent or impede—

Preventing the saving of the life of any person shipwrecked.

(a.) any shipwrecked person in his endeavour to save his life; or

(b.) who without reasonable cause prevents or impedes, or endeavours to prevent or impede, any person in his endeavour to save the life of any shipwrecked person. R.S.C., c. 81, s. 36.

**255.** Every one is guilty of an offence and liable, on summary conviction, to a fine or imprisonment with or without hard labour (or both) who—

Leaving holes in the ice and excavations unguarded.

(a.) cuts or makes, or causes to be cut or made, any hole, opening, aperture or place, of sufficient size or area to endanger human life, through the ice on any navigable or other water open to or frequented by the public, and leaves such hole, opening, aperture or place, while it is in a state dangerous to human life, whether the same is frozen over or not, uninclosed by bushes or trees or unguarded by a guard or fence of sufficient height and strength to prevent any person from accidentally riding, driving, walking, skating or falling therein; or

(b.) being the owner, manager or superintendent of any abandoned or unused mine or quarry or property upon or in which any excavation has been or is hereafter made, of a sufficient area and depth to endanger human life, leaves the same unguarded and uninclosed by a guard or fence of sufficient height and strength to prevent any person from accidentally riding, driving, walking or falling thereinto; or

(c.) omits within five days after conviction of any such offence to make the inclosure aforesaid or to construct around or over such exposed opening or excavation a guard or fence of such height and strength.

2. Every one whose duty it is to guard such hole, opening, aperture or place is guilty of manslaughter if any person loses his life by accidentally falling therein while the same is unguarded. R.S.C., c. 162, ss. 29, 30, 31 and 32.

**256.** Every one is guilty of an indictable offence and liable to five years' imprisonment who—

Sending unseaworthy ships to sea.

(a.) sends, or attempts to send, or is a party to sending, a ship registered in Canada to sea, or on a voyage on any of the inland waters of Canada, or on a voyage from any port or place on the inland waters of Canada to any port or place on the inland waters of the United States, or on a voyage from any port or place on the inland waters of the United

States

States to any port or place on the inland waters of Canada in such unseaworthy state, by reason of overloading or underloading or improper loading, or by reason of being insufficiently manned, or from any other cause that the life of any person is likely to be endangered thereby, unless he proves that he used all reasonable means to insure her being sent to sea or on such voyage in a seaworthy state, or that her going to sea or on such voyage in such unseaworthy state was, under the circumstances, reasonable and justifiable. 52 Vic., c. 22, s. 3.

Taking unseaworthy ships to sea.

**257.** Every one is guilty of an indictable offence and liable to five years' imprisonment who, being the master of a ship registered in Canada knowingly takes such ship to sea, or on a voyage on any of the inland waters of Canada, or on a voyage from any port or place on the inland waters of Canada to any port or place on the inland waters of the United States, or on a voyage from any port or place in the United States to any port or place on the inland waters of Canada, in such unseaworthy state, by reason of overloading or underloading or improper loading, or by reason of being insufficiently manned, or from any other cause, that the life of any person is likely to be endangered thereby, unless he proves that her going to sea or on such voyage in such unseaworthy state was, under the circumstances, reasonable and justifiable. 52 V., c. 22, s. 3.

#### PART XX.

#### ASSAULTS.

Assault defined.

**258.** An assault is the act of intentionally applying force to the person of another, directly or indirectly, or attempting or threatening, by any act or gesture, to apply force to the person of another, if the person making the threat has, or causes the other to believe, upon reasonable grounds, that he has, present ability to effect his purpose, and in either case, without the consent of the other or with such consent, if it is obtained by fraud.

Indecent assaults on females.

**259.** Every one is guilty of an indictable offence and liable to two years' imprisonment, and to be whipped, who—

(a.) indecently assaults any female; or

(b.) does anything to any female by her consent which but for such consent would be an indecent assault, such consent being obtained by false and fraudulent representations as to the nature and quality of the act. 53 V., c. 37, s. 12.

Indecent assaults on males.

**260.** Every one is guilty of an indictable offence and liable to seven years' imprisonment and to be whipped who  
assaults

assaults any person with attempt to commit sodomy, or who, being a male, indecently assaults any other male person. R.S.C., c. 157, s. 2.

**261.** It is no defence to a charge or indictment for any indecent assault on a young person under the age of fourteen years to prove that he or she consented to the act of indecency. 53 V., c. 37, s. 7. Consent of child under fourteen no defence.

**262.** Every one who commits any assault which occasions actual bodily harm is guilty of an indictable offence and liable to three years' imprisonment. R.S.C., c. 162, s. 35. Assaults causing actual bodily harm.

**263.** Every one is guilty of an indictable offence and liable to two years' imprisonment who— Aggravated assault.

(a.) assaults any person with intent to commit any indictable offence; or

(b.) assaults any public or peace officer engaged in the execution of his duty, or any person acting in aid of such officer; or

(c.) assaults any person with intent to resist or prevent the lawful apprehension or detainer of himself, or of any other person, for any offence; or

(d.) assaults any person in the lawful execution of any process against any lands or goods, or in making any lawful distress or seizure, or with intent to rescue any goods taken under such process, distress or seizure; R.S.C., c. 162, s. 34.

(e.) on any day whereon any poll for any election, parliamentary or municipal, is being proceeded with, within the distance of two miles from the place where such poll is taken or held, assaults or beats any person.

**264.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, without lawful authority, forcibly seizes and confines or imprisons any other person within Canada, or kidnaps any other person with intent— Kidnapping.

(a.) to cause such other person to be secretly confined or imprisoned in Canada against his will; or

(b.) to cause such other person to be unlawfully sent or transported out of Canada against his will; or

(c.) to cause such other person to be sold or captured as a slave, or in any way held to service against his will.

2. Upon the trial of any offence under this section the non-resistance of the person so kidnapped or unlawfully confined thereto shall not be a defence, unless it appears that it was not caused by threats, duress or force or exhibition of force. R.S.C., c. 162, s. 46.

**265.** Every one who commits a common assault is guilty of an indictable offence and liable, if convicted upon an indictment, to one year's imprisonment, or to a fine not exceeding Common assault.

exceeding one hundred dollars, and on summary conviction to a fine not exceeding twenty dollars and costs, or to two months' imprisonment with or without hard labour. R.S.C., c. 162, s. 36.

## PART XXI.

## RAPE AND PROCURING ABORTION.

Rape defined. **266.** Rape is the act of a man having carnal knowledge of a woman who is not his wife without her consent, or with consent which has been extorted by threats or fear of bodily harm, or obtained by personating the woman's husband, or by false and fraudulent representations as to the nature and quality of the act.

2. No one under the age of fourteen years can commit this offence.

Carnal knowledge. **3.** Carnal knowledge is complete upon penetration to any, even the slightest degree, and even without the emission of seed. R.S.C., c. 174, s. 226.

Punishment for rape. **267.** Every one who commits rape is guilty of an indictable offence and liable to suffer death, or to imprisonment for life. R.S.C., c. 162, s. 37.

Attempt to commit rape. **268.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who attempts to commit rape.

Defiling children under fourteen. **269.** Every one is guilty of an indictable offence and liable to imprisonment for life, and to be whipped, who carnally knows any girl under the age of fourteen years, not being his wife, whether he believes her to be of or above that age or not. 53 V., c. 37, s. 12.

Attempt to commit such offence. **270.** Every one who attempts to have unlawful carnal knowledge of any girl under the age of fourteen years is guilty of an indictable offence and liable to two years' imprisonment, and to be whipped. 53 V., c. 37, s. 12.

Killing unborn child. **271.** Every one is guilty of an indictable offence and liable to imprisonment for life who causes the death of any child which has not become a human being, in such a manner that he would have been guilty of murder if such child had been born.

2. No one is guilty of any offence who, by means which he in good faith considers necessary for the preservation of the life of the mother of the child, causes the death of any such child before or during its birth.

Procuring abortion. **272.** Every one is guilty of an indictable offence and liable to imprisonment for life who, with intent to procure the



the miscarriage of any woman, whether she is or is not with child, unlawfully administers to her or causes to be taken by her any drug or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent. R.S.C., c. 162, s. 47.

**273.** Every woman is guilty of an indictable offence and liable to seven years' imprisonment who, whether with child or not, unlawfully administers to herself or permits to be administered to her any drug or other noxious thing, or unlawfully uses on herself or permits to be used on her any instrument or other means whatsoever with intent to procure miscarriage. R.S.C., c. 162, s. 47.

Woman procuring her own miscarriage.

**274.** Every one is guilty of an indictable offence and liable to two years' imprisonment who unlawfully supplies or procures any drug or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she is or is not with child. R.S.C., c. 162, s. 48.

Supplying means of procuring abortion.

## PART XXII.

### OFFENCES AGAINST CONJUGAL AND PARENTAL RIGHTS—BIGAMY—ABDUCTION.

#### **275.** Bigamy is—

Bigamy defined.

(a.) the act of a person who, being married, goes through a form of marriage with any other person in any part of the world; or

(b.) the act of a person who goes through a form of marriage in any part of the world with any person whom he or she knows to be married; or

(c.) the act of a person who goes through a form of marriage with more than one person simultaneously or on the same day. R.S.C., c. 37, s. 10.

2. A "form of marriage" is any form either recognized as a valid form by the law of the place where it is gone through, or, though not so recognized, is such that a marriage celebrated there in that form is recognized as binding by the law of the place where the offender is tried. Every form shall for the purpose of this section be valid, notwithstanding any act or default of the person charged with bigamy, if it is otherwise a valid form. The fact that the parties would, if unmarried, have been incompetent to contract marriage shall be no defence upon a prosecution for bigamy.

3. No one commits bigamy by going through a form of marriage—

(a.)

(a.) if he or she in good faith and on reasonable grounds believes his wife or her husband to be dead ; or

(b.) if his wife or her husband has been continually absent for seven years then last past and he or she is not proved to have known that his wife or her husband was alive at any time during those seven years ; or

(c.) if he or she has been divorced from the bond of the first marriage ; or

(d.) if the former marriage has been declared void by a court of competent jurisdiction. R.S.C., c. 161, s. 4.

4. No person shall be liable to be convicted of bigamy in respect of having gone through a form of marriage in a place not in Canada, unless such person, being a British subject resident in Canada, leaves Canada with intent to go through such form of marriage.

Punishment  
of bigamy.

**276.** Every one who commits bigamy is guilty of an indictable offence and liable to seven years' imprisonment.

2. Every one who commits this offence after a previous conviction for a like offence shall be liable to fourteen years' imprisonment. R.S.C., c. 161, s. 4.

Feigned mar-  
riages.

**277.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who procures a feigned or pretended marriage between himself and any woman, or who knowingly aids and assists in procuring such feigned or pretended marriage. R.S.C., c. 161, s. 2.

Punishment  
of polygamy.

**278.** Every one is guilty of an indictable offence and liable to imprisonment for five years, and to a fine of five hundred dollars, who—

(a.) practises, or, by the rites, ceremonies, forms, rules or customs of any denomination, sect or society, religious or secular, or by any form of contract, or by mere mutual consent, or by any other method whatsoever, and whether in a manner recognized by law as a binding form of marriage or not, agrees or consents to practise or enter into

(i.) any form of polygamy ;

(ii.) any kind of conjugal union with more than one person at the same time ;

(iii.) what among the persons commonly called Mormons is known as spiritual or plural marriage ;

(iv.) who lives, cohabits, or agrees or consents to live or cohabit, in any kind of conjugal union with a person who is married to another, or with a person who lives or cohabits with another or others in any kind of conjugal union ; or

(b.) celebrates, is a party to, or assists in any such rite or ceremony which purports to make binding or to sanction any of the sexual relationships mentioned in paragraph (a) of this section ; or

(c.)

(c.) procures, enforces, enables, is a party to, or assists in the compliance with, or carrying out of, any such form, rule or custom which so purports; or

(d.) procures, enforces, enables, is a party to, or assists in the execution of, any such form of contract which so purports, or the giving of any such consent which so purports. 53 V., c. 37, s. 11.

**279.** Every one is guilty of an indictable offence and liable to a fine, or to two years' imprisonment, or to both, who—

(a.) without lawful authority, the proof of which shall lie on him, solemnizes or pretends to solemnize any marriage; or

(b.) procures any person to solemnize any marriage knowing that such person is not lawfully authorized to solemnize such marriage, or knowingly aids or abets such person in performing such ceremony. R.S.C., c. 161, s. 1.

Solemnization of marriage without lawful authority.

**280.** Every one is guilty of an indictable offence and liable to a fine, or to one year's imprisonment, who, being lawfully authorized, knowingly and wilfully solemnizes any marriage in violation of the laws of the province in which the marriage is solemnized. R.S.C., c. 161, s. 3.

Solemnization of marriage contrary to law.

**281.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, with intent to marry or carnally know any woman, whether married or not, or with intent to cause any woman to be married to or carnally known by any other person, takes away or detains any woman of any age against her will. R.S.C., c. 162, s. 43.

Abduction of a woman.

**282.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, with intent to marry or carnally know any woman, or with intent to cause any woman to be married or carnally known by any person—

Abduction of an heiress.

(a.) from motives of lucre takes away or detains against her will any such woman of any age who has any interest, whether legal or equitable, present or future, absolute, conditional or contingent, in any real or personal estate, or who is a presumptive heiress or co-heiress or presumptive next of kin to any one having such interest; or

(b.) fraudulently allures, takes away or detains any such woman, being under the age of twenty-one years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, with intent to marry or carnally know her.

2. Every one convicted of any offence defined in this section is incapable of taking any estate or interest, legal or equitable, in any real or personal property of such woman, or in which she has any interest, or which comes to her as such heiress, co-heiress or next of kin; and if any such marriage takes place such property shall, upon such conviction,

viction, be settled in such manner as any court of competent jurisdiction, upon any information at the instance of the Attorney-General appoints. R.S.C., c. 162, s. 42.

Abduction of girl under sixteen.

**283.** Every one is guilty of an indictable offence and liable to five years' imprisonment who unlawfully takes or causes to be taken any unmarried girl, being under the age of sixteen years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her.

2. It is immaterial whether the girl is taken with her own consent or at her own suggestion or not.

3. It is immaterial whether or not the offender believed the girl to be of or above the age of sixteen. R.S.C., c. 162, s. 44.

Stealing children under fourteen.

**284.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, with intent to deprive any parent or guardian, or other person having the lawful charge, of any child under the age of fourteen years, of the possession of such child, or with intent to steal any article about or on the person of such child, unlawfully—

(a.) takes or entices away or detains any such child; or

(b.) receives or harbours any such child knowing it to have been dealt with as aforesaid.

2. Nothing in this section shall extend to any one who gets possession of any child, claiming in good faith a right to the possession of the child. R.S.C., c. 162, s. 45.

#### PART XXIII.

#### DEFAMATORY LIBEL.

Defamatory libel defined.

**285.** A defamatory libel is matter published, without legal justification or excuse, likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or designed to insult the person to whom it is published.

2. Such matter may be expressed either in words legibly marked upon any substance whatever, or by any object signifying such matter otherwise than by words, and may be expressed either directly or by insinuation or irony.

Publishing defined.

**286.** Publishing a libel is exhibiting it in public, or causing it to be read or seen, or showing or delivering it, or causing it to be shown or delivered, with a view to its being read or seen by the person defamed or by any other person.

Publishing upon invitation.

**287.** No one commits an offence by publishing defamatory matter on the invitation or challenge of the person defamed thereby, nor if it is necessary to publish such defamatory matter in order to refute some other defamatory statement published by that person concerning the alleged offender,



offender, if such defamatory matter is believed to be true, and is relevant to the invitation, challenge or the required refutation, and the publishing does not in manner or extent exceed what is reasonably sufficient for the occasion.

**288.** No one commits an offence by publishing any defamatory matter, in any proceeding held before or under the authority of any court exercising judicial authority, or in any inquiry made under the authority of any statute or by order of Her Majesty, or of any of the departments of Government, Dominion or provincial. Publishing in courts of justice.

**289.** No one commits an offence by publishing to either the Senate, or House of Commons, or to any Legislative Council, Legislative Assembly or House of Assembly, defamatory matter contained in a petition to the Senate, or House of Commons, or to any such Council or Assembly, or by publishing by order or under the authority of the Senate or House of Commons, or of any such Council or Assembly, any paper containing defamatory matter or by publishing, in good faith and without ill-will to the person defamed, any extract from or abstract of any such paper. Publishing parliamentary papers.

**290.** No one commits an offence by publishing in good faith, for the information of the public, a fair report of the proceedings of the Senate or House of Commons, or any committee thereof, or of any such Council or Assembly, or any committee thereof, or of the public proceedings preliminary or final heard before any court exercising judicial authority, nor by publishing, in good faith, any fair comment upon any such proceedings. Fair reports of proceedings of parliament and courts.

**291.** No one commits an offence by publishing in good faith, in a newspaper, a fair report of the proceedings of any public meeting if the meeting is lawfully convened for a lawful purpose and open to the public, and if such report is fair and accurate, and if the publication of the matter complained of is for the public benefit, and if the defendant does not refuse to insert in a conspicuous place in the newspaper in which the report appeared a reasonable letter or document of explanation or contradiction by or on behalf of the prosecutor. Fair reports of proceedings of public meetings.

**292.** No one commits an offence by publishing any defamatory matter which he, on reasonable grounds, believes to be true, and which is relevant to any subject of public interest, the public discussion of which is for the public benefit. Fair discussion.

**293.** No one commits an offence by publishing fair comments upon the public conduct of a person who takes part in public affairs. Fair comment.

2. No one commits an offence by publishing fair comments on any published book or other literary production, or any composition or work of art or performance publicly exhibited, or any other communication made to the public on any subject, if such comments are confined to criticism on such book or literary production, composition, work of art, performance or communication.

Seeking remedy for grievance.

**294.** No one commits an offence by publishing defamatory matter for the purpose, in good faith, of seeking remedy or redress for any private or public wrong or grievance from a person who has, or is reasonably believed by the person publishing to have, the right or be under obligation to remedy or redress such wrong or grievance, if the defamatory matter is believed by him to be true, and is relevant to the remedy or redress sought, and such publishing does not in manner or extent exceed what is reasonably sufficient for the occasion.

Answer to inquiries.

**295.** No one commits an offence by publishing, in answer to inquiries made of him, defamatory matter relating to some subject as to which the person by whom, or on whose behalf, the inquiry is made has, or on reasonable grounds is believed by the person publishing to have, an interest in knowing the truth, if such matter is published for the purpose, in good faith, of giving information in respect thereof to that person, and if such defamatory matter is believed to be true, and is relevant to the inquiries made, and also if such publishing does not in manner or extent exceed what is reasonably sufficient for the occasion.

Giving information.

**296.** No one commits an offence by publishing to another person defamatory matter for the purpose of giving information to that person with respect to some subject as to which he has, or is, on reasonable grounds, believed to have, such an interest in knowing the truth as to make the conduct of the person giving the information reasonable under the circumstances: Provided, that such defamatory matter is relevant to such subject, and that it is either true, or is made without ill-will to the person defamed, and in the belief, on reasonable grounds, that it is true.

Selling periodicals containing defamatory libel.

**297.** Every proprietor of any newspaper is presumed to be criminally responsible for defamatory matter inserted and published therein, but such presumption may be rebutted by proof that the particular defamatory matter was inserted in such newspaper without such proprietor's cognizance, and without negligence on his part.

2. General authority given to the person actually inserting such defamatory matter to manage or conduct, as editor or otherwise, such newspaper, and to insert therein what he in his discretion thinks fit, shall not be negligence within this section unless it be proved that the proprietor, when originally

originally giving such general authority, meant that it should extend to inserting and publishing defamatory matter, or continued such general authority knowing that it had been exercised by inserting defamatory matter in any number or part of such newspaper.

3. No one is guilty of an offence by selling any number or part of such newspaper, unless he knew either that such number or part contained defamatory matter, or that defamatory matter was habitually contained in such newspaper.

**298.** No one commits an offence by selling any book, magazine, pamphlet or other thing whether forming part of any periodical or not, although the same contains defamatory matter, if, at the time of such sale, he did not know that such defamatory matter was contained in such book, magazine, pamphlet or other thing. Selling books containing defamatory matter.

2. The sale by a servant of any book, magazine, pamphlet or other thing, whether periodical or not, shall not make his employer criminally responsible in respect of defamatory matter contained therein unless it be proved that such employer authorized such sale knowing that such book, magazine, pamphlet or other thing contained defamatory matter, or, in case of a number or part of a periodical, that defamatory matter was habitually contained in such periodical.

**299.** It shall be a defence to an indictment or information for a defamatory libel that the publishing of the defamatory matter in the manner in which it was published was for the public benefit at the time when it was published, and that the matter itself was true. R.S.C., c. 163, s. 4. When truth is a defence.

**300.** Every one is guilty of an indictable offence and liable to two years' imprisonment, or to a fine not exceeding six hundred dollars, or to both, who publishes or threatens to publish, or offers to abstain from publishing, or offers to prevent the publishing of, a defamatory libel with intent to extort any money, or to induce any person to confer upon or procure for any person any appointment or office of profit or trust, or in consequence of any person having been refused any such money, appointment or office. R.S.C., c. 163, s. 1. Extortion by defamatory libel.

**301.** Every one is guilty of an indictable offence and liable to two years' imprisonment or to a fine not exceeding four hundred dollars, or to both, who publishes any defamatory libel knowing the same to be false. R.S.C., c. 163, s. 2. Imprisonment of defamatory libel known to be false.

**302.** Every one is guilty of an indictable offence and liable to one year's imprisonment, or to a fine not exceeding two hundred dollars, or to both, who publishes any defamatory libel. R.S.C., c. 163, s. 3. Punishment of defamatory libel.



## TITLE VI.

OFFENCES AGAINST RIGHTS OF PROPERTY AND  
RIGHTS ARISING OUT OF CONTRACTS, AND  
OFFENCES CONNECTED WITH TRADE.

## PART XXIV.

## THEFT DEFINED.

Things capa-  
ble of being  
stolen.

**303.** Every inanimate thing whatever which is the property of any person, and which either is or may be made movable, shall henceforth be capable of being stolen as soon as it becomes movable, although it is made movable in order to steal it: Provided, that nothing growing out of the earth of a value not exceeding twenty-five cents shall (except in the cases hereinafter provided) be deemed capable of being stolen.

Animals capa-  
ble of being  
stolen

**304.** All tame living creatures, whether tame by nature or wild by nature and tamed, shall be capable of being stolen; but tame pigeons shall be capable of being stolen so long only as they are in a dovecote or on their owner's land.

2. All living creatures wild by nature, such as are not commonly found in a condition of natural liberty in Canada, shall, if kept in a state of confinement, be capable of being stolen, not only while they are so confined but after they have escaped from confinement.

3. All other living creatures wild by nature shall, if kept in a state of confinement, be capable of being stolen so long as they remain in confinement or are being actually pursued after escaping therefrom, but no longer.

4. A wild living creature shall be deemed to be in a state of confinement so long as it is in a den, cage or small inclosure, sty or tank, or is otherwise so situated that it cannot escape and that its owner can take possession of it at pleasure.

5. Oysters and oyster brood shall be capable of being stolen when in oyster beds, layings, and fisheries which are the property of any person, and sufficiently marked out or known as such property.

6. Wild creatures in the enjoyment of their natural liberty shall not be capable of being stolen, nor shall the taking of their dead bodies by, or by the orders of, the person who killed them before they are reduced into actual possession by the owner of the land on which they died, be deemed to be theft.

7. Every thing produced by or forming part of any living creature capable of being stolen, shall be capable of being stolen.



**305.** Theft or stealing is the act of fraudulently and without colour of right taking, or fraudulently and without colour of right converting to the use of any person, anything capable of being stolen, with intent— Theft defined.

(a.) to deprive the owner, or any person having any special property or interest therein, temporarily or absolutely of such thing or of such property or interest ; or

(b.) to pledge the same or deposit it as security ; or

(c.) to part with it under a condition as to its return which the person parting with it may be unable to perform ; or

(d.) to deal with it in such a manner that it cannot be restored in the condition in which it was at the time of such taking and conversion.

2. The taking or conversion may be fraudulent, although effected without secrecy or attempt at concealment.

3. It is immaterial whether the thing converted was taken for the purpose of conversion, or whether it was, at the time of the conversion, in the lawful possession of the person converting.

4. Theft is committed when the offender moves the thing or causes it to move or to be moved, or begins to cause it to become movable, with intent to steal it.

5. Provided, that no factor or agent shall be guilty of theft by pledging or giving a lien on any goods or document of title to goods intrusted to him for the purpose of sale or otherwise, for any sum of money not greater than the amount due to him from his principal at the time of pledging or giving a lien on the same, together with the amount of any bill of exchange accepted by him for or on account of his principal.

6. Provided, that if any servant, contrary to the orders of his master, takes from his possession any food for the purpose of giving the same or having the same given to any horse or other animal belonging to or in the possession of his master, the servant so offending shall not, by reason thereof, be guilty of theft. R.S.C., c. 164, s. 63.

**306.** Every one commits theft and steals the thing taken or carried away who, whether pretending to be the owner or not, secretly or openly, takes or carries away, or causes to be taken or carried away, without lawful authority, any property under lawful seizure and detention. R.S.C., c. 164, s. 50. Theft of things under seizure.

**307.** Every one commits theft and steals the creature killed who kills any living creature capable of being stolen with intent to steal the carcase, skin, plumage or any part of such creature. Theft of animals.

**308.** Every one commits theft who, having received any money or valuable security or other thing whatsoever, on terms requiring him to account for or pay the same, or Theft by agent.  
the

the proceeds thereof, or any part of such proceeds, to any other person, though not requiring him to deliver over in specie the identical money, valuable security or other thing received, fraudulently converts the same to his own use, or fraudulently omits to account for or pay the same or any part thereof, or to account for or pay such proceeds or any part thereof, which he was required to account for or pay as aforesaid.

2. Provided, that if it be part of the said terms that the money or other thing received, or the proceeds thereof, shall form an item in a debtor and creditor account between the person receiving the same and the person to whom he is to account for or pay the same, and that such last mentioned person shall rely only on the personal liability of the other as his debtor in respect thereof, the proper entry of such money or proceeds, or any part thereof, in such account, shall be a sufficient accounting for the money, or proceeds, or part thereof so entered, and in such case no fraudulent conversion of the amount accounted for shall be deemed to have taken place.

Theft by person holding a power of attorney.

**309.** Every one commits theft who, being intrusted, either solely or jointly with any other person, with any power of attorney for the sale, mortgage, pledge or other disposition of any property, real or personal, whether capable of being stolen or not, fraudulently sells, mortgages, pledges or otherwise disposes of the same or any part thereof, or fraudulently converts the proceeds of any sale, mortgage, pledge or other disposition of such property, or any part of such proceeds, to some purpose other than that for which he was intrusted with such power of attorney. R.S.C., c. 164, s. 62.

Theft by misappropriating proceeds held under direction.

**310.** Every one commits theft who, having received, either solely or jointly with any other person, any money or valuable security or any power of attorney for the sale of any property, real or personal, with a direction that such money, or any part thereof, or the proceeds, or any part of the proceeds of such security, or such property, shall be applied to any purpose or paid to any person specified in such direction, in violation of good faith and contrary to such direction, fraudulently applies to any other purpose or pays to any other person such money or proceeds, or any part thereof.

2. Provided, that where the person receiving such money, security or power of attorney, and the person from whom he receives it, deal with each other on such terms that all money paid to the former would, in the absence of any such direction, be properly treated as an item in a debtor and creditor account between them, this section shall not apply unless such direction is in writing.

**311.** Theft may be committed by the owner of anything capable of being stolen against a person having a special property or interest therein, or by a person having a special property or interest therein against the owner thereof, or by a lessee against his reversioner, or by one of several joint owners, tenants in common, or partners of or in any such thing against the other persons interested therein, or by the directors, public officers or members of a public company, or body corporate, or of an unincorporated body or society associated together for any lawful purpose, against such public company or body corporate or unincorporated body or society. R.S.C., c. 164, s. 58.

Theft by co-owner.

**312.** Every one commits theft who, with intent to defraud his co-partner, co-adventurer, joint tenant or tenant in common, in any mining claim, or in any share or interest in any such claim, secretly keeps back or conceals any gold or silver found in or upon or taken from such claim. R.S.C., c. 164, s. 31.

Concealing gold or silver with intent to defraud partner in claim.

**313.** No husband shall be convicted of stealing, during cohabitation, the property of his wife, and no wife shall be convicted of stealing, during cohabitation, the property of her husband ; but while they are living apart from each other either shall be guilty of theft if he or she fraudulently takes or converts anything which is, by law, the property of the other in a manner which, in any other person, would amount to theft.

Husband and wife.

2. Every one commits theft who, while a husband and wife are living together, knowingly—

(a.) assists either of them in dealing with anything which is the property of the other in a manner which would amount to theft if they were not married ; or

(b.) receives from either of them anything, the property of the other, obtained from that other by such dealing as aforesaid.

#### PART XXV.

#### RECEIVING STOLEN GOODS.

**314.** Every one is guilty of an indictable offence, and liable to fourteen years' imprisonment, who receives or retains in his possession anything obtained by any offence punishable on indictment, or by any acts wheresoever committed, which, if committed in Canada after the commencement of this Act, would have constituted an offence punishable upon indictment, knowing such thing to have been so obtained. R.S.C., c. 164, s. 82.

Receiving property dishonestly obtained.

**315.** Every one is guilty of an indictable offence and liable to five years' imprisonment who receives or retains in his possession, Receiving stolen post letter or post letter bag.



possession, any post letter, post letter bag, or any chattel, money or valuable security, parcel or other thing, the stealing whereof is hereby declared to be an indictable offence, knowing the same to have been stolen. R.S.C., c. 35, s. 84.

Receiving property obtained by offence punishable on summary conviction.

**316.** Every one who receives or retains in his possession anything, knowing the same to be unlawfully obtained, the stealing of which is punishable, on summary conviction, either for every offence, or for the first and second offence only, is guilty of an offence and liable, on summary conviction, for every first, second or subsequent offence of receiving, to the same punishment as if he were guilty of a first, second or subsequent offence of stealing the same. R.S.C., c. 164, s. 84.

When receiving is complete.

**317.** The act of receiving anything unlawfully obtained is complete as soon as the offender has, either exclusively or jointly with the thief or any other person, possession of or control over such thing, or aids in concealing or disposing of it.

Receiving after restoration to owner.

**318.** When the thing unlawfully obtained has been restored to the owner, or when a legal title to the thing so obtained has been acquired by any person, a subsequent receiving thereof shall not be an offence although the receiver may know that the thing had previously been dishonestly obtained.

#### PART XXVI.

#### PUNISHMENT OF THEFT AND OFFENCES RESEMBLING THEFT COMMITTED BY PARTICULAR PERSONS IN RESPECT OF PARTICULAR THINGS IN PARTICULAR PLACES.

Clerks and servants.

**319.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment, who—

(a) being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, steals anything belonging to or in the possession of his master or employer; or

(b.) being a cashier, assistant cashier, manager, officer, clerk or servant of any bank, or savings bank, steals any bond, obligation, bill obligatory or of credit, or other bill or note, or any security for money, or any money or effects of such bank or lodged or deposited with any such bank;

(c.) being employed in the service of Her Majesty, or of the Government of Canada or the Government of any province of Canada, or of any municipality, steals anything in his possession by virtue of his employment. R.S.C., c. 164, ss. 51, 52, 53, 54 and 59.



**320.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals anything by any act or omission amounting to theft under the provisions of sections three hundred and eight, three hundred and nine and three hundred and ten. Agents and attendants.

**321.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, being employed in the service of Her Majesty or of the Government of Canada or the Government of any province of Canada, or of any municipality, and intrusted by virtue of such employment with the keeping, receipt, custody, management or control of any chattel, money, valuable security, book, paper, account or document, refuses or fails to deliver up the same to any one authorized to demand it. R.S.C., c. 164, s. 55. Public servants refusing to deliver up chattels, money, or books, and generally committed to them.

**322.** Every one who steals any chattel or fixture let to be used by him or her in or with any house or lodging is guilty of an indictable offence and liable to two years' imprisonment, and if the value of such chattel or fixture exceeds the sum of twenty-five dollars to four years' imprisonment. R.S.C., c. 164, s. 57. Tenants and lodgers.

**323.** Every one is guilty of an indictable offence and liable to imprisonment for life who, either during the life of the testator or after his death, steals the whole or any part of a testamentary instrument, whether the same relates to real or personal property, or to both. R.S.C., c. 164, s. 14. Testamentary instruments.

**324.** Every one is guilty of an indictable offence and liable to three years' imprisonment who steals the whole or any part of any document of title to lands or goods. R.S.C., c. 164, s. 13. Document of title to lands.

**325.** Every one is guilty of an indictable offence and liable to three years' imprisonment who steals the whole or any part of any record, writ, return, affirmation, recognition, *cognovit actionem*, bill, petition, answer, decree, panel, process, interrogatory, deposition, affidavit, rule, order or warrant of attorney, or of any original document whatsoever of or belonging to any court of justice, or relating to any cause or matter begun, depending or terminated in any such court, or of any original document in any wise relating to the business of any office or employment under Her Majesty, and being or remaining in any office appertaining to any court of justice, or in any government or public office. R.S.C., c. 164, s. 15. Judicial or official documents.

**326.** Every one is guilty of an indictable offence and liable to imprisonment for life, or for any term not less than three years, who steals—

(a.) a post letter bag ; or

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(b.)

Stealing post letter bags, &c.

(b.) a post letter from a post letter bag, or from any post office, or from any officer or person employed in any business of the post office of Canada, or from a mail ; or

(c.) a post letter containing any chattel, money or valuable security ; or

(d.) any chattel, money or valuable security from or out of a post letter. R.S.C., c. 35, ss. 79, 80 and 81.

Stealing post letters, packets and keys.

**327.** Every one is guilty of an indictable offence and liable to imprisonment for any term not exceeding seven years, and not less than three years, who steals—

(a.) any post letter, except as mentioned in paragraph (b) of section three hundred and twenty-six ;

(b.) any parcel sent by parcel post, or any article contained in any such parcel ; or

(c.) any key suited to any lock adopted for use by the Post Office Department, and in use on any Canada mail or mail bag. R.S.C., c. 35, ss. 79, 83 and 88.

Stealing mail-able matter other than post letters.

**328.** Every one is guilty of an indictable offence and liable to five years' imprisonment who steals any printed vote or proceeding, newspaper, printed paper or book, packet or package of patterns or samples of merchandise or goods, or of seeds, cuttings, bulbs, roots, scions or grafts, or any post card or other mailable matter (not being a post letter) sent by mail. R.S.C., c. 35, s. 90.

Election documents.

**329.** Every one is guilty of an indictable offence and liable to a fine in the discretion of the court, or to seven years' imprisonment, or to both fine and imprisonment who steals, or unlawfully takes from any person having the lawful custody thereof, or from its lawful place of deposit for the time being, any writ of election, or any return to a writ of election, or any indenture, poll-book, voters' list, certificate, affidavit or report, ballot or any document or paper made, prepared or drawn out according to or for the requirements of any law in regard to Dominion, provincial, municipal or civic elections. R.S.C., c. 8, s. 102 ; c. 164, s. 56.

Railway tickets.

**330.** Every one is guilty of an indictable offence and liable to two years' imprisonment who steals any tramway, railway or steamboat ticket, or any order or receipt for a passage on any railway or in any steamboat or other vessel. R.S.C., c. 164, s. 16.

Cattle.

**331.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals any cattle. R.S.C., c. 164, ss. 7 and 8.

Dogs, birds, beasts and other animals.

**332.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the value of the property stolen, or to

to one month's imprisonment with hard labour, who steals any dog, or any bird, beast or other animal ordinarily kept in a state of confinement or for any domestic purpose, or for any lawful purpose of profit or advantage.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable to three months' imprisonment with hard labour. R.S.C., c. 164, s. 9.

**333.** Every one who unlawfully and wilfully kills, Pigeons. wounds or takes any house-dove or pigeon, under such circumstances as do not amount to theft, is guilty of an offence and liable, upon complaint of the owner thereof, on summary conviction, to a penalty not exceeding ten dollars over and above the value of the bird. R.S.C., c. 164, s. 10

**334.** Every one is guilty of an indictable offence and Oysters. liable to seven years' imprisonment who steals oysters or oyster brood.

2. Every one is guilty of an indictable offence and liable to three months' imprisonment who unlawfully and wilfully uses any dredge or net, instrument or engine whatsoever, within the limits of any oyster bed, laying or fishery, being the property of any other person, and sufficiently marked out or known as such, for the purpose of taking oysters or oyster brood, although none are actually taken, or unlawfully and wilfully with any net, instrument or engine, drags upon the ground of any such fishery.

3. Nothing herein applies to any person fishing for or catching any swimming fish within the limits of any oyster fishery with any net, instrument or engine adapted for taking swimming fish only. R.S.C., c. 164, s. 11.

**335.** Every one is guilty of an indictable offence and Things fixed to buildings or in land. liable to seven years' imprisonment who steals any glass or woodwork belonging to any building whatsoever, or any lead, iron, copper, brass or other metal, or any utensil or fixture, whether made of metal or other material, or of both, respectively fixed in or to any building whatsoever, or anything made of metal fixed in any land, being private property, or for a fence to any dwelling-house, garden or area, or in any square or street, or in any place dedicated to public use or ornament, or in any burial ground. R.S.C., c. 164, s. 17.

**336.** Every one is guilty of an indictable offence and Trees in pleasure grounds, &c., of five dollars value; trees elsewhere of twenty-five dollars' value. liable to two years' imprisonment who steals the whole or any part of any tree, sapling or shrub, or any underwood, the thing stolen being of the value of twenty-five dollars, or of the value of five dollars if the thing stolen grows in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling-house. R.S.C., c. 164, s. 18.

Trees of the  
value of  
twenty-five  
cents.

**337.** Every one who steals the whole or any part of any tree, sapling or shrub, or any underwood, the value of the article stolen, or the amount of the damage done, being twenty-five cents at the least, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty-five dollars over and above the value of the article stolen or the amount of the injury done.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable, on summary conviction, to three months' imprisonment with hard labour.

3. Every one who, having been twice convicted of any such offence, afterwards commits any such offence is guilty of an indictable offence and liable to five years' imprisonment. R.S.C., c. 164, s. 19.

Timber found  
adrift.

**338.** Every one is guilty of an indictable offence and liable to three years' imprisonment who—

(a.) without the consent of the owner thereof:

(i.) fraudulently takes, holds, keeps in his possession, collects, conceals, receives, appropriates, purchases, sells or causes or procures or assists to be taken possession of, collected, concealed, received, appropriated, purchased or sold, any timber, mast, spar, saw-log or other description of lumber which is found adrift in, or cast ashore on the bank or beach of, any river, stream or lake ;

(ii.) wholly or partially defaces or adds, or causes or procures to be defaced or added, any mark or number on any such timber, mast, spar, saw-log or other description of lumber, or makes or causes or procures to be made any false or counterfeit mark on any such timber, mast, spar, saw-log or other description of lumber ; or

(b.) refuses to deliver up to the proper owner thereof, or to the person in charge thereof, on behalf of such owner, or authorized by such owner to receive the same, any such timber, mast, spar, saw-log or other description of lumber. R.S.C., c. 164, s. 87.

Fences, stiles  
and gates.

**339.** Every one who steals any part of any live or dead fence, or any wooden post, pale, wire or rail set up or used as a fence, or any stile or gate, or any part thereof respectively, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the value of the article or articles so stolen or the amount of the injury done.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable, on summary conviction, to three months' imprisonment with hard labour. R.S.C., c. 164, s. 21.

Failing to  
satisfy justice  
that posses-

**340.** Every one who, having in his possession, or on his premises with his knowledge, the whole or any part of any tree,



tree, sapling or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, wire, rail, stile or gate, or any part thereof, of the value of twenty-five cents at the least, is taken or summoned before a justice of the peace, and does not satisfy such justice that he came lawfully by the same, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding ten dollars, over and above the value of the article so in his possession or on his premises. R.S.C., c. 164, s. 22.

**341.** Every one who steals any plant, root, fruit or vegetable production growing in any garden, orchard, pleasure ground, nursery ground, hot-house, green-house or conservatory is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the value of the article so stolen or the amount of the injury done, or to one month's imprisonment with or without hard labour.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is guilty of an indictable offence and liable to three years' imprisonment. R.S.C., c. 164, s. 23.

**342.** Every one who steals any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard, pleasure ground, or nursery ground, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding five dollars over and above the value of the article so stolen or the amount of the injury done, or to one month's imprisonment with hard labour.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable to three months' imprisonment with hard labour. R.S.C., c. 164, s. 24.

**343.** Every one is guilty of an indictable offence and liable to two years' imprisonment who steals the ore of any metal, or any quartz, lapis calaminaris, manganese, or mundic, or any piece of gold, silver or other metal, or any wad, black cawk, or black lead, or any coal, or cannel coal, or any marble, stone or other mineral, from any mine, bed or vein thereof respectively.

2. It is not an offence to take, for the purposes of exploration or scientific investigation, any specimen or specimens of any ore or mineral from any piece of ground uninclosed and not occupied or worked as a mine, quarry or digging. R.S.C., c. 164, s. 25.

**344.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals any chattel, money

money or valuable security from the person of another. R.S.C., c. 164, s. 32.

Stealing in dwelling-houses.

**345.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who—

(a.) steals in any dwelling-house any chattel, money or valuable security to the value in the whole of twenty-five dollars or more; or,

(b.) steals any chattel, money or valuable security in any dwelling-house, and by any menace or threat puts any one therein in bodily fear. R.S.C., c. 164, ss. 45 and 46.

Stealing by picklocks, &c.

**346.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, by means of any picklock, false key or other instrument steals anything from any receptacle for property locked or otherwise secured.

Stealing in manufactories, &c.

**347.** Every one is guilty of an indictable offence and liable to five years' imprisonment who steals, to the value of two dollars, any woollen, linen, hempen or cotton yarn, or any goods or articles of silk, woollen, linen, cotton, alpaca or mohair, or of any one or more of such materials mixed with each other or mixed with any other material, while laid, placed or exposed, during any stage, process or progress of manufacture, in any building, field or other place. R.S.C., c. 164, s. 47.

Fraudulently disposing of goods intrusted for manufacture.

**348.** Every one is guilty of an indictable offence and liable to two years' imprisonment, when the offence is not within the next preceding section, who, having been intrusted with, for the purpose of manufacture or for a special purpose connected with manufacture, or employed to make, any felt or hat, or to prepare or work up any woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax or silk, or any such materials mixed with one another, or having been so intrusted, as aforesaid, with any other article, materials, fabric or thing, or with any tools or apparatus for manufacturing the same, fraudulently disposes of the same or any part thereof. R.S.C., c. 164, s. 48.

Stealing from ships, wharfs, &c.

**349.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who—

(a.) steals any goods or merchandise in any vessel, barge or boat of any description whatsoever, in any haven or in any port of entry or discharge, or upon any navigable river or canal, or in any creek or basin belonging to or communicating with any such haven, port, river or canal; or

(b.) steals any goods or merchandise from any dock, wharf or quay adjacent to any such haven, port, river, canal, creek or basin. R.S.C., c. 164, s. 49.

**350.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who steals any wreck. Stealing wreck.  
R.S.C., c. 81, s. 36 (c).

**351.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals anything in or from any railway station or building, or from any engine, tender or vehicle of any kind on any railway. Stealing on railways.

**352.** Every one who steals, or unlawfully injures or removes, any image, bones, article or thing deposited in or near any Indian grave is guilty of an offence and liable, on summary conviction, for a first offence to a penalty not exceeding one hundred dollars or to three months' imprisonment, and for a subsequent offence to the same penalty and to six months' imprisonment with hard labour. R.S.C., c. 164, s. 98. Stealing things deposited in Indian graves.

**353.** Every one who destroys, cancels, conceals or obliterated any document of title to goods or lands, or any valuable security, testamentary instrument, or judicial, official or other document, for any fraudulent purpose, is guilty of an indictable offence and liable to the same punishment as if he had stolen such document, security or instrument. R.S.C., c. 164, s. 12. Destroying, &c., documents.

**354.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, for any fraudulent purpose, takes, obtains, removes or conceals anything capable of being stolen. Concealing.

**355.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, having obtained elsewhere than in Canada any property by any act which if done in Canada would have amounted to theft, brings such property into or has the same in Canada. R.S.C., c. 164, s. 88. Bringing stolen property into Canada.

**356.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who steals anything for the stealing of which no punishment is otherwise provided or commits in respect thereof any offence for which he is liable to the same punishment as if he had stolen the same. Stealing things not otherwise provided for.

2. The offender is liable to ten years' imprisonment if he has been previously convicted of theft. R.S.C., c. 164, ss. 5, 6 and 85.

**357.** If the value of anything stolen, or in respect of which any offence is committed for which the offender is liable to the same punishment as if he had stolen it, exceeds the sum of two hundred dollars the offender is liable to two hundred dollars. Additional punishment when value of property exceeds two hundred dollars.

two years' imprisonment, in addition to any punishment to which he is otherwise liable for such offence. R.S.C., c. 164, s. 86.

## PART XXVII.

OBTAINING PROPERTY BY FALSE PRETENSES AND  
OTHER CRIMINAL FRAUDS AND DEALINGS  
WITH PROPERTY.

Definition of  
false pretense.

**358.** A false pretense is a representation, either by words or otherwise, of a matter of fact either present or past, which representation is known to the person making it to be false, and which is made with a fraudulent intent to induce the person to whom it is made to act upon such representation.

2. Exaggerated commendation or depreciation of the quality of anything is not a false pretense, unless it is carried to such an extent as to amount to a fraudulent misrepresentation of fact.

3. It is a question of fact whether such commendation or depreciation does or does not amount to a fraudulent misrepresentation of fact.

Punishment  
of false pre-  
tense.

**359.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, with intent to defraud, by any false pretense, either directly or through the medium of any contract obtained by such false pretense, obtains anything capable of being stolen, or procures anything capable of being stolen to be delivered to any other person than himself. R.S.C., c. 164, s. 77.

Obtaining  
execution of  
valuable secu-  
rity by false  
pretense.

**360.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, with intent to defraud or injure any person by any false pretense, causes or induces any person to execute, make, accept, endorse or destroy the whole or any part of any valuable security, or to write, impress or affix any name or seal on any paper or parchment in order that it may afterwards be made or converted into or used or dealt with as a valuable security. R.S.C., c. 164, s. 78.

Falsely pre-  
tending to  
inclose mone-  
y, &c., in a  
letter.

**361.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, wrongfully and with wilful falsehood, pretends or alleges that he inclosed and sent, or caused to be inclosed and sent, in any post letter any money, valuable security or chattel, which in fact he did not so inclose and send or cause to be inclosed and sent therein. R.S.C., c. 164, s. 79.

Obtaining  
passage by  
false tickets.

**362.** Every one is guilty of an indictable offence and liable to six months' imprisonment who, by means of any false



false ticket or order, or of any other ticket or order, fraudulently and unlawfully obtains or attempts to obtain any passage on any carriage, tramway or railway, or in any steam or other vessel. R.S.C., c. 164, s. 81.

**363.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being a trustee of any property for the use or benefit, either in whole or in part, of some other person, or for any public or charitable purpose, with intent to defraud, and in violation of his trust, converts anything of which he is trustee to any use not authorized by the trust. Criminal branch of trust.

#### PART XXVIII.

#### FRAUD.

**364.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being a director, manager, public officer or member of any body corporate or public company, with intent to defraud—

(a.) destroys, alters, mutilates or falsifies any book, paper, writing or valuable security belonging to the body corporate or public company; or

(b.) makes, or concurs in making, any false entry, or omits or concurs in omitting to enter any material particular, in any book of account or other document R.S.C., c. 164, s. 68.

**365.** Every one is guilty of an indictable offence and liable to five years' imprisonment who, being a promoter, director, public officer or manager of any body corporate or public company, either existing or intended to be formed, makes, circulates or publishes, or concurs in making, circulating or publishing, any prospectus, statement or account which he knows to be false in any material particular, with intent to induce persons (whether ascertained or not) to become shareholders or partners, or with intent to deceive or defraud the members, shareholders or creditors, or any of them (whether ascertained or not), of such body corporate or public company, or with intent to induce any person to intrust or advance any property to such body corporate or public company, or to enter into any security for the benefit thereof. R.S.C., c. 164, s. 69. False statement by official.

**366.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being or acting in the capacity of an officer, clerk or servant, with intent to defraud—

(a.) destroys, alters, mutilates or falsifies any book, paper writing, valuable security or document which belongs to or is in the possession of his employer, or has been received by

by him for or on behalf of his employer, or concurs in so doing; or

(b.) makes, or concurs in making, any false entry in, or omits or alters, or concurs in omitting or altering, any material particular from, any such book, paper writing, valuable security or document.

False statement by public officer.

**367.** Every one is guilty of an indictable offence and liable to five years' imprisonment, and to a fine not exceeding five hundred dollars, who, being an officer, collector or receiver, intrusted with the receipt, custody or management of any part of the public revenues, knowingly furnishes any false statement or return of any sum of money collected by him or intrusted to his care, or of any balance of money in his hands or under his control.

Assigning property with intent to defraud creditors.

**368.** Every one is guilty of an indictable offence and liable to a fine of eight hundred dollars and to one year's imprisonment who—

(a.) with intent to defraud his creditors, or any of them,

(i.) makes, or causes to be made, any gift, conveyance, assignment, sale, transfer or delivery of his property;

(ii.) removes, conceals or disposes of any of his property;

or

(b.) with the intent that any one shall so defraud his creditors, or any one of them, receives any such property. R.S.C., c. 173, s. 28.

Destroying or falsifying books with intent to defraud creditors.

**369.** Every one is guilty of an indictable offence and liable to ten years' imprisonment who, with intent to defraud his creditors or any of them, destroys, alters, mutilates or falsifies any of his books, papers, writings or securities, or makes, or is privy to the making of, any false or fraudulent entry in any book of account or other document. R.S.C., c. 173, s. 27.

Concealing deeds or encumbrances or falsifying pedigrees.

**370.** Every one is guilty of an indictable offence and liable to a fine, or to two years' imprisonment, or to both, who, being a seller or mortgagor of land, or of any chattel, real or personal, or chose in action, or the solicitor or agent of any such seller or mortgagor (and having been served with a written demand of an abstract of title by or on behalf of the purchaser or mortgagee before the completion of the purchase or mortgage) conceals any settlement, deed, will or other instrument material to the title, or any encumbrance, from such purchaser or mortgagee, or falsifies any pedigree upon which the title depends, with intent to defraud and in order to induce such purchaser or mortgagee to accept the title offered or produced to him. R.S.C., c. 164, s. 91.

Frauds in respect to the registration of titles to land.

**371.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, acting either as principal

principal or agent, in any proceeding to obtain the registration of any title to land or otherwise, or in any transaction relating to land which is, or is proposed to be, put on the register, knowingly and with intent to deceive makes or assists or joins in, or is privy to the making of, any material false statement or representation, or suppresses, conceals, assists or joins in, or is privy to the suppression, withholding or concealing from, any judge or registrar, or any person employed by or assisting the registrar, any material document, fact or matter of information. R.S.C., c. 164, ss. 96 and 97.

**372.** Every one is guilty of an indictable offence and liable to one year's imprisonment, and to a fine not exceeding two thousand dollars, who, knowing the existence of any unregistered prior sale, grant, mortgage, hypothec, privilege or encumbrance of or upon any real property, fraudulently makes any subsequent sale of the same, or of any part thereof. R.S.C., c. 164, ss. 92 and 93. Fraudulent sales of real property.

**373.** Every one who pretends to hypothecate, mortgage, or otherwise charge any real property to which he knows he has no legal or equitable title is guilty of an indictable offence and liable to one year's imprisonment, and to a fine not exceeding one hundred dollars. Fraudulent hypothecations of real property.

2. The proof of the ownership of the real estate rests with the person so pretending to deal with the same. R.S.C., c. 164, ss. 92 and 94.

**374.** Every one is guilty of an indictable offence and liable to one year's imprisonment who, in the province of Quebec, wilfully causes or procures to be seized and taken in execution any lands and tenements, or other real property, not being, at the time of such seizure, to the knowledge of the person causing the same to be taken in execution, the *bonâ fide* property of the person or persons against whom, or whose estate, the execution is issued. R.S.C., c. 164, ss. 92 and 95. Fraudulent seizures of land.

**375.** Every one is guilty of an indictable offence and liable to two years' imprisonment, who— Unlawful dealings with gold and silver.

(a.) being the holder of any lease or license issued under the provisions of any Act relating to gold or silver mining, or by any persons owning land supposed to contain any gold or silver, by fraudulent device or contrivance defrauds or attempts to defraud Her Majesty, or any person, of any gold, silver or money payable or reserved by such lease, or, with such intent as aforesaid, conceals or makes a false statement as to the amount of gold or silver procured by him; or

(b.) not being the owner or agent of the owners of mining claims then being worked, and not being thereunto authorized in writing by the proper officer in that behalf named in any

any Act relating to mines in force in any province of Canada, sells or purchases (except to or from such owner or authorized person) any quartz containing gold, or any smelted gold or silver, at or within three miles of any gold district or mining district, or gold mining division ; or

(c.) purchases any gold in quartz, or any unsmelted or smelted gold or silver, or otherwise unmanufactured gold or silver, of the value of one dollar or upwards (except from such owner or authorized person), and does not, at the same time, execute in triplicate an instrument in writing, stating the place and time of purchase, and the quantity, quality and value of gold or silver so purchased, and the name or names of the person or persons from whom the same was purchased, and file the same with such proper officer within twenty days next after the date of such purchase. R.S.C., c. 164, ss. 27, 28 and 29.

Warehousemen, &c., giving false receipts ; knowingly using the same.

**376.** Every one is guilty of an indictable offence and liable to three years' imprisonment, who—

(a.) being the keeper of any warehouse, or a forwarder, miller, master of a vessel, wharfinger, keeper of a cove, yard, harbour or other place for storing timber, deals, staves, boards, or lumber, curer or packer of pork, or dealer in wool, carrier, factor, agent or other person, or a clerk or other person in his employ, knowingly and wilfully gives to any person a writing purporting to be a receipt for, or an acknowledgment of, any goods or other property as having been received into his warehouse, vessel, cove, wharf, or other place, or in any such place about which he is employed, or in any other manner received by him, or by the person in or about whose business he is employed before the goods or other property named in such receipt, acknowledgment or writing have been actually delivered to or received by him as aforesaid, with intent to mislead, deceive, injure or defraud any person, although such person is then unknown to him ; or

(b.) knowingly and wilfully accepts, transmits or uses any such false receipt or acknowledgment or writing. R.S.C., c. 164, s. 73.

Owners of merchandise disposing thereof contrary to agreements with consignees who have made advances thereon.

**377.** Every one is guilty of an indictable offence and liable to three years' imprisonment, who—

(a.) having, in his name, shipped or delivered to the keeper of any warehouse, or to any other factor, agent or carrier, to be shipped or carried, any merchandise upon which the consignee has advanced any money or given any valuable security afterwards, with intent to deceive, defraud or injure such consignee, in violation of good faith, and without the consent of such consignee, makes any disposition of such merchandise different from and inconsistent with the agreement made in that behalf between him and such consignee at the time of or before such money was so advanced or such negotiable security so given ; or

(b.)



(b.) knowingly and wilfully aids and assists in making such disposition for the purpose of deceiving, defrauding or injuring such consignee

2. No person commits an offence under this section who, before making such disposition of such merchandise, pays or tenders to the consignee the full amount of any advance made thereon. R.S.C., c. 164, s. 74.

**378.** Every person is guilty of an indictable offence and liable to three years' imprisonment who—

(a.) wilfully makes any false statement in any receipt, certificate or acknowledgment for grain, timber or other goods or property which can be used for any of the purposes mentioned in *The Bank Act*; or

(b.) having given, or after any clerk or person in his employ has, to his knowledge, given, as having been received by him in any mill, warehouse, vessel, cove or other place, any such receipt, certificate or acknowledgment for any such grain, timber or other goods or property,—or having obtained any such receipt, certificate or acknowledgment, and after having endorsed or assigned it to any bank or person, afterwards, and without the consent of the holder or endorsee in writing, or the production and delivery of the receipt, certificate or acknowledgment, wilfully alienates or parts with, or does not deliver to such holder or owner of such receipt, certificate or acknowledgment, the grain, timber, goods or other property therein mentioned. R.S.C., c. 164, s. 75.

Making false statements in receipts for property that can be used under "The Bank Act;" fraudulently dealing with property to which such receipts refer.

**379.** If any offence mentioned in any of the three sections next preceding is committed by the doing of anything in the name of any firm, company or copartnership of persons the person by whom such thing is actually done, or who connives at the doing thereof, is guilty of the offence, and not any other person. R.S.C., c. 164, s. 76.

Innocent partners.

**380.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, not having lawful title thereto, sells any vessel or wreck found within the limits of Canada. R.S.C., c. 81, s. 36 (d).

Selling vessel or wreck not having title thereto.

**381.** Every one is guilty of an indictable offence and liable, on conviction on indictment to two years' imprisonment, and on summary conviction before two justices of the peace to a penalty of four hundred dollars or six months' imprisonment, with or without hard labour, who—

Other offence respecting wrecks.

(a.) secretes any wreck, or defaces or obliterates the marks thereon, or uses means to disguise the fact that it is wreck, or in any manner conceals the character thereof, or the fact that the same is such wreck, from any person entitled to inquire into the same; or

(b.)

(b.) receives any wreck, knowing the same to be wreck, from any person, other than the owner thereof or the receiver of wrecks, and does not within forty-eight hours inform the receiver thereof ;

(c.) offers for sale or otherwise deals with any wreck, knowing it to be wreck, not having a lawful title to sell or deal with the same ; or

(d.) keeps in his possession any wreck, knowing it to be wreck, without a lawful title so to keep the same, for any time longer than the time reasonably necessary for the delivery of the same to the receiver ; or

(e.) boards any vessel which is wrecked, stranded or in distress against the will of the master, unless the person so boarding is, or acts by command of, the receiver. R.S.C., c. 81, s. 37.

Offences re-  
specting old  
marine stores.

**382.** Every person who deals in the purchase of old marine stores of any description, including anchors, cables, sails, junk, iron, copper, brass, lead and other marine stores, and who, by himself or his agent, purchases any old marine stores from any person under the age of sixteen years, is guilty of an offence and liable, on summary conviction, to a penalty of four dollars for the first offence and of six dollars for every subsequent offence.

2. Every such person who, by himself or his agent, purchases or receives any old marine stores into his shop, premises or places of deposit, except in the daytime between sunrise and sunset, is guilty of an offence and liable, on summary conviction, to a penalty of five dollars for the first offence and of seven dollars for every subsequent offence.

3. Every person, purporting to be a dealer in old marine stores, on whose premises any such stores which were stolen are found secreted is guilty of an indictable offence and liable to five years' imprisonment. R.S.C., c. 81, s. 35.

Definitions.

**383.** In the next six sections, the following expressions have the meaning assigned to them herein :

(a.) The expression "public department" includes the Admiralty and the War Department, and also any public department or office of the Government of Canada, or of the public or civil service thereof, or any branch of such department or office ;

(b.) The expression "public stores" includes all stores under the care, superintendence or control of any public department as herein defined, or of any person in the service of such department ;

(c.) The expression "stores" includes all goods and chattels, and any single store or article. 50-51 V., c. 45, s. 2.

Marks to be  
used on public  
stores.

**384.** The following marks may be applied in or on any public stores to denote Her Majesty's property in such stores, and it shall be lawful for any public department, and the contractors,

contractors, officers and workmen of such department, to apply such marks, or any of them, in or on any such stores :—

*Marks appropriated for Her Majesty's use in or on Naval, Military, Ordnance, Barrack, Hospital and Victualling Stores.*

STORES.	MARKS.
Hempen cordage and wire rope.	White, black or coloured threads laid up with the yarns and the wire, respectively.
Canvas, fearnought, hammocks and sea-men's bags.	A blue line in a serpentine form.
Bunting.	A double tape in the warp.
Candles.	Blue or red cotton threads in each wick, or wicks of red cotton.
Timber, metal and other stores not before enumerated.	The broad arrow, with or without the letters W.D.

*Marks appropriated for use on stores, the property of Her Majesty in the right of her Government of Canada.*

STORES.	MARKS.
Public stores.	The name of any public department, or the word "Canada," either alone or in combination with a Crown or the Royal Arms.

50-51 V., c. 45, s. 3 ; 53 V., c. 38.

**385.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, without lawful authority the proof of which shall lie on him, applies any of the said marks in or on any public stores. 50-51 V., c. 45, s. 4.

Unlawfully applying marks to public stores.

**386.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, with intent to conceal Her Majesty's property in any public stores, takes out, destroys or obliterates, wholly or in part, any of the said marks. 50-51 V., c. 45, s. 5.

Taking marks from public stores.

**387.** Every one who, without lawful authority the proof of which lies on him, receives, possesses, keeps, sells or delivers any public stores bearing any such mark as aforesaid, knowing them to bear such mark, is guilty of an indictable offence and liable on conviction on indictment to one year's imprisonment and, if the value thereof does not exceed twenty-five dollars, on summary conviction, before two justices of the peace, to a fine of one hundred dollars or to six months' imprisonment with or without hard labour. 50-51 V., c. 45, ss. 6 and 8.

Unlawful possession, sale, &c., of public stores.

**388.** Every one, not being in Her Majesty's service, or a dealer in marine stores or a dealer in old metals, in whose possession any public stores bearing any such mark are found who, when taken or summoned before two justices of the peace, does not satisfy such justices that he came lawfully

Not satisfying justices that possession of public stores is lawful

fully by such stores so found, is guilty of an offence and liable, on summary conviction, to a fine of twenty-five dollars; and

2. If any such person satisfies such justices that he came lawfully by the stores so found, the justices, in their discretion, as the evidence given or the circumstances of the case require, may summon before them every person through whose hands such stores appear to have passed; and

3. Every one who has had possession thereof, who does not satisfy such justices that he came lawfully by the same, is liable, on summary conviction of having had possession thereof, to a fine of twenty-five dollars, and in default of payment to three months' imprisonment with or without hard labour. 50-51 V., c. 45, s. 9.

Searching for  
stores near  
Her Majesty's  
vessels.

**389.** Every one who, without permission in writing from the Admiralty, or from some person authorized by the Admiralty in that behalf, creeps, sweeps, dredges, or otherwise searches for stores in the sea, or any tidal or inland water, within one hundred yards from any vessel belonging to Her Majesty, or in Her Majesty's service, or from any mooring place or anchoring place appropriated to such vessels, or from any mooring belonging to Her Majesty, or from any of Her Majesty's wharfs or docks, victualling or steam factory yards, is guilty of an offence and liable, on summary conviction before two justices of the peace, to a fine of twenty-five dollars, or to three months' imprisonment, with or without hard labour. 50-51 V., c. 45, ss. 11 and 12.

Receiving regi-  
mental ne-  
cessaries, &c.,  
from soldiers  
or deserters.

**390.** Every one is guilty of an indictable offence and liable on conviction on indictment to five years' imprisonment and on summary conviction before two justices of the peace to a penalty not exceeding forty dollars, and not less than twenty dollars and costs, and, in default of payment, to six months' imprisonment with or without hard labour who—

(a.) buys, exchanges or detains, or otherwise receives from any soldier, militiaman or deserter any arms, clothing or furniture belonging to Her Majesty, or any such articles belonging to any soldier, militiaman or deserter as are generally deemed regimental necessities according to the custom of the army; or

(b.) causes the colour of such clothing or articles to be changed; or

(c.) exchanges, buys or receives from any soldier or militiaman any provisions, without leave in writing from the officer commanding the regiment or detachment to which such soldier belongs. R.S.C., c. 169, ss. 2 and 4.

Receiving,  
&c., necessa-  
ries from ma-  
riners or de-  
serters.

**391.** Every one is guilty of an indictable offence, and liable, on conviction on indictment to five years' imprisonment, and on summary conviction before two justices of the peace



peace to a penalty not exceeding one hundred and twenty dollars, and not less than twenty dollars and costs, and in default of payment to six months' imprisonment, who buys, exchanges or detains, or otherwise receives, from any seaman or marine, upon any account whatsoever, or has in his possession, any arms or clothing, or any such articles, belonging to any seaman, marine or deserter, as are generally deemed necessities according to the custom of the navy. R.S.C., c. 169, ss. 3 and 4.

**392.** Every one is guilty of an indictable offence who detains, buys, exchanges, takes on pawn or receives, from any seaman or any person acting for a seaman, any seaman's property, or solicits or entices any seaman, or is employed by any seaman to sell, exchange or pawn any seaman's property, unless he acts in ignorance of the same being seaman's property, or of the person with whom he deals being or acting for a seaman, or unless the same was sold by the order of the Admiralty or Commander-in-Chief.

Receiving, &c., a seaman's property.

2. The offender is liable, on conviction on indictment to five years' imprisonment, and on summary conviction to a penalty not exceeding one hundred dollars; and for a second offence, to the same penalty, or, in the discretion of the justice, to six months' imprisonment, with or without hard labour.

3. The expression "seaman" means every person, not being a commissioned, warrant or subordinate officer, who is in or belongs to Her Majesty's Navy, and is borne on the books of any one of Her Majesty's ships in commission, and every person, not being an officer as aforesaid, who, being borne on the books of any hired vessel in Her Majesty's service, is, by virtue of any Act of Parliament of the United Kingdom for the time being in force for the discipline of the Navy, subject to the provisions of such Act.

4. The expression "seaman's property" means any clothes, slops, medals, necessities or articles usually deemed to be necessities for sailors on board ship, which belong to any seaman.

5. The expression "Admiralty," means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral. R.S.C., c. 171, ss. 1 and 2.

**393.** Every one in whose possession any seaman's property is found who does not satisfy the justice of the peace before whom he is taken or summoned that he came by such property lawfully is liable, on summary conviction, to a fine of twenty-five dollars. R.S.C., c. 171, s. 3.

Not satisfying justice that possession of seaman's property is lawful.

**394.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who conspires with any other person, by deceit or falsehood or other fraudulent means,

Conspiracy to defraud.

means, to defraud the public or any person, ascertained or unascertained, or to affect the public market price of stocks, shares, merchandise or anything else publicly sold, whether such deceit or falsehood or other fraudulent means would or would not amount to a false pretense as hereinbefore defined.

Cheating at play.

**395.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, with intent to defraud any person, cheats in playing at any game, or in holding the stakes, or in betting on any event. R.S.C., c. 164, s. 80.

Pretending to practise witchcraft.

**396.** Every one is guilty of an indictable offence and liable to one year's imprisonment who pretends to exercise or use any kind of witchcraft, sorcery, enchantment or conjuration, or undertakes to tell fortunes, or pretends from his skill or knowledge in any occult or crafty science, to discover where or in what manner any goods or chattels supposed to have been stolen or lost may be found.

#### PART XXIX.

#### ROBBERY AND EXTORTION.

Robbery defined.

**397.** Robbery is theft accompanied with violence or threats of violence to any person or property used to extort the property stolen, or to prevent or overcome resistance to its being stolen.

Punishment of aggravated robbery.

**398.** Every one is guilty of an indictable offence and liable to imprisonment for life and to be whipped who—

(a.) robs any person and at the time of, or immediately before or immediately after, such robbery wounds, beats, strikes, or uses any personal violence to, such person; or

(b.) being together with any other person or persons robs, or assaults with intent to rob, any person; or

(c.) being armed with an offensive weapon or instrument robs, or assaults with intent to rob, any person. R.S.C., c. 164, s. 34.

Punishment of robbery.

**399.** Every one who commits robbery is guilty of an indictable offence and liable to fourteen years' imprisonment. R.S.C., c. 164, s. 32.

Assault with intent to rob.

**400.** Every one who assaults any person with intent to rob him is guilty of an indictable offence and liable to three years' imprisonment. R.S.C., c. 164, s. 33.

Stopping the mail

**401.** Every one is guilty of an indictable offence and liable to imprisonment for life, or for any term not less than five

five years, who stops a mail with intent to rob or search the same. R.S.C., c. 35, s. 81.

**402.** Every one is guilty of an indictable offence and liable to imprisonment for life who, with intent to defraud, or injure, by unlawful violence to, or restraint of the person of another, or by the threat that either the offender or any other person will employ such violence or restraint, unlawfully compels any person to execute, make, accept, endorse, alter or destroy the whole or any part of any valuable security, or to write, impress or affix any name or seal upon any paper or parchment, in order that it may be afterwards made or converted into or used or dealt with as a valuable security. R.S.C., c. 173, s. 5.

*Compelling execution of documents by force.*

**403.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing demanding of any person with menaces, and without any reasonable or probable cause, any property, chattel, money, valuable security or other valuable thing. R.S.C., c. 173, s. 1.

*Sending letter demanding property with menaces.*

**404.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, with menaces, demands from any person, either for himself or for any other person, anything capable of being stolen with intent to steal it.

*Demanding with intent to steal.*

**405.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, with intent to extort or gain anything from any person--

*Extortion by certain threats.*

(a.) accuses or threatens to accuse either that person or any other person, whether the person accused or threatened with accusation is guilty or not, of

(i.) any offence punishable by law with death or imprisonment for seven years or more ;

(ii.) any assault with intent to commit a rape, or any attempt or endeavour to commit a rape, or any indecent assault ;

(iii.) carnally knowing or attempting to know any child so as to be punishable under this Act ;

(iv.) any infamous offence, that is to say, buggery, an attempt or assault with intent to commit buggery, or any unnatural practice, or incest ;

(v.) counselling or procuring any person to commit any such infamous offence ; or

(b.) threatens that any person shall be so accused by any other person ; or

(c.) causes any person to receive a document containing such accusation or threat, knowing the contents thereof ;

(*d.*) by any of the means aforesaid compels or attempts to compel any person to execute, make, accept, endorse, alter or destroy the whole or any part of any valuable security, or to write, impress or affix any name or seal upon or to any paper or parchment, in order that it may be afterwards made or converted into or used or dealt with as a valuable security. R.S.C., c. 173, ss. 3, 4, 1 and 5.

Extortion by  
other threats.

**406.** Every one is guilty of an indictable offence, and liable to imprisonment for seven years who—

(*a.*) with intent to extort or gain anything from any person accuses or threatens to accuse either that person or any other person of any offence other than those specified in the last section, whether the person accused or threatened with accusation is guilty or not of that offence ; or

(*b.*) with such intent as aforesaid, threatens that any person shall be so accused by any person ; or

(*c.*) causes any person to receive a document containing such accusation or threat knowing the contents thereof ; or

(*d.*) by any of the means aforesaid, compels or attempts to compel any person to execute, make, accept, endorse, alter or destroy the whole or any part of any valuable security, or to write, impress or affix any name or seal upon or to any paper or parchment, in order that it may be afterwards made or converted into, or used or dealt with as a valuable security.

#### PART XXX.

#### BURGLARY AND HOUSEBREAKING.

Definition of  
dwelling-  
house, &c.

**407.** In this part the following words are used in the following senses :

(*a.*) “ Dwelling-house ” means a permanent building the whole or any part of which is kept by the owner or occupier for the residence therein of himself, his family or servants, or any of them, although it may at intervals be unoccupied ;

(*i.*) A building occupied with, and within the same curtilage with, any dwelling-house shall be deemed to be part of the said dwelling-house if there is between such building and dwelling-house a communication, either immediate or by means of a covered and inclosed passage, leading from the one to the other, but not otherwise ;

(*b.*) To “ break ” means to break any part, internal or external, of a building, or to open by any means whatever (including lifting, in the case of things kept in their places by their own weight), any door, window, shutter, cellar-flap or other thing intended to cover openings to the building, or to give passage from one part of it to another ;

(*i.*) An entrance into a building is made as soon as any part of the body of the person making the entrance, or any part of any instrument used by him, is within the building ;

(*ii.*)



(ii.) Every one who obtains entrance into any building by any threat or artifice used for that purpose, or by collusion with any person in the building, or who enters any chimney or other aperture of the building permanently left open for any necessary purpose, shall be deemed to have broken and entered that building. R.S.C., c. 164, s. 2.

**408.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who breaks and enters any place of public worship and commits any indictable offence therein, or who, having committed any indictable offence therein, breaks out of such place. R.S.C., c. 164, s. 35.

**409.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who breaks and enters any place of public worship with intent to commit any indictable offence therein. R.S.C., c. 164, s. 42.

**410.** Every one is guilty of the indictable offence called burglary, and liable to imprisonment for life, who—

(a.) breaks and enters a dwelling-house by night with intent to commit any indictable offence therein; or

(b.) breaks out of any dwelling-house by night, either after committing an indictable offence therein, or after having entered such dwelling-house, either by day or by night, with intent to commit an indictable offence therein. R.S.C., c. 164, s. 37.

**411.** Every one is guilty of the indictable offence called housebreaking, and liable to fourteen years' imprisonment, who—

(a.) breaks and enters any dwelling-house by day and commits any indictable offence therein; or

(b.) breaks out of any dwelling-house by day after having committed any indictable offence therein. R.S.C., c. 164, s. 40.

**412.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, by day, breaks and enters any dwelling-house with intent to commit any indictable offence therein. R.S.C., c. 164, s. 42.

**413.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, either by day or night, breaks and enters and commits any indictable offence in a school-house, shop, warehouse or counting-house, or any building within the curtilage of a dwelling-house, but not so connected therewith as to form part of it under the provisions hereinbefore contained. R.S.C., c. 164, s. 41.

**414.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, either by day or night, breaks and enters any of the buildings mentioned in the

Breaking  
place of  
worship and  
committing  
offence.

Breaking  
place of  
worship with  
intent to com-  
mit offence.

Burglary  
defined.

Housebreak-  
ing and com-  
mitting an  
indictable  
offence.

Housebreak-  
ing with  
intent to com-  
mit an indict-  
able offence.

Breaking shop  
and commit-  
ting an indict-  
able offence.

Breaking shop  
with intent to  
commit an  
indictable  
offence.

the last preceding section with intent to commit any indictable offence therein. R.S.C., c. 164, s. 42.

Being found in dwelling-house by night.

**415.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who unlawfully enters, or is in, any dwelling-house by night with intent to commit any indictable offence therein. R.S.C., c. 164, s. 39.

Being found armed with intent to break a dwelling-house.

**416.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who is found—

(a.) armed with any dangerous or offensive weapon or instrument by day, with intent to break or enter into any dwelling-house, and to commit any indictable offence therein ; or

(b.) armed as aforesaid by night, with intent to break into any building and to commit any indictable offence therein. R.S.C., c. 164, s. 43.

Being disguised or in possession of housebreaking instruments.

**417.** Every one is guilty of an indictable offence and liable to five years' imprisonment who is found—

(a.) having in his possession by night, without lawful excuse (the proof of which shall lie upon him), any instrument of housebreaking ; or

(b.) having in his possession by day any such instrument with intent to commit any indictable offence ; or

(c.) having his face masked or blackened, or being otherwise disguised, by night, without lawful excuse (the proof whereof shall lie on him) ; or

(d.) having his face masked or blackened, or being otherwise disguised, by day with intent to commit any indictable offence. R.S.C., c. 164, s. 43.

Punishment after previous conviction.

**418.** Every one who, after a previous conviction for any indictable offence, is convicted of an indictable offence specified in this part for which the punishment on a first conviction is less than fourteen years' imprisonment is liable to fourteen years' imprisonment. R.S.C., c. 164, s. 44.

## PART XXXI.

### FORGERY.

Document defined.

**419.** A document means in this part any paper, parchment, or other material used for writing or printing, marked with matter capable of being read, but does not include trade marks on articles of commerce, or inscriptions on stone or metal or other like material.

"Bank note" and "exchequer bill" defined.

**420.** "Bank note" includes all negotiable instruments issued by or on behalf of any person, body corporate, or company carrying on the business of banking in any part of the

the world, or issued by the authority of the Parliament of Canada or of any foreign prince, or state, or government, or any governor or other authority lawfully authorized thereto in any of Her Majesty's dominions, and intended to be used as equivalent to money, either immediately upon their issue or at some time subsequent thereto. and all bank bills and bank post bills;

(a.) "Exchequer bill" includes exchequer bonds, notes, debentures and other securities issued under the authority of the Parliament of Canada, or under the authority of any legislature of any province forming part of Canada, whether before or after such province so became a part of Canada.

**421.** The expression "false document" means—

False document defined.

(a.) a document the whole or some material part of which purports to be made by or on behalf of any person who did not make or authorize the making thereof, or which, though made by, or by the authority of, the person who purports to make it is falsely dated as to time or place of making, where either is material; or

(b.) a document the whole or some material part of which purports to be made by or on behalf of some person who did not in fact exist; or

(c.) a document which is made in the name of an existing person, either by that person or by his authority, with the fraudulent intention that the document should pass as being made by some person, real or fictitious, other than the person who makes or authorizes it.

2. It is not necessary that the fraudulent intention should appear on the face of the document, but it may be proved by external evidence.

**422.** Forgery is the making of a false document, knowing it to be false, with the intention that it shall in any way be used or acted upon as genuine, to the prejudice of any one whether within Canada or not, or that some person should be induced, by the belief that it is genuine, to do or refrain from doing anything, whether within Canada or not.

Forgery defined.

2. Making a false document includes altering a genuine document in any material part, and making any material addition to it or adding to it any false date, attestation, seal or other thing which is material, or by making any material alteration in it, either by erasure, obliteration, removal or otherwise.

3. Forgery is complete as soon as the document is made with such knowledge and intent as aforesaid, though the offender may not have intended that any particular person should use or act upon it as genuine, or be induced, by the belief that it is genuine, to do or refrain from doing anything.

4. Forgery is complete although the false document may be incomplete, or may not purport to be such a document as would

would be binding in law, if it be so made as, and is such as to indicate that it was intended, to be acted on as genuine.

Punishment  
of forgery.

**423.** Every one who commits forgery of the documents hereinafter mentioned is guilty of an indictable offence and liable to the following punishment:—

(A.) To imprisonment for life if the document forged purports to be, or was intended by the offender to be understood to be or to be used as—

(a.) any document having impressed thereon or affixed thereto any public seal of the United Kingdom or any part thereof, or of Canada or any part thereof, or of any dominion, possession or colony of Her Majesty; R.S.C., c. 165, s. 4; or

(b.) any document bearing the signature of the Governor General, or of any administrator, or of any deputy of the Governor, or of any Lieutenant-Governor or any one at any time administering the government of any province of Canada; R.S.C., c. 165, s. 5; or

(c.) any document containing evidence of, or forming the title or any part of the title to, any land or hereditament, or to any interest in or to any charge upon any land or hereditament, or evidence of the creation, transfer or extinction of any such interest or charge; or

(d.) any entry in any register or book, or any memorial or other document made, issued, kept or lodged under any Act for or relating to the registering of deeds or other instruments respecting or concerning the title to or any claim upon any land or the recording or declaring of titles to land; R.S.C., c. 165, s. 38; or

(e.) any document required for the purpose of procuring the registering of any such deed or instrument or the recording or declaring of any such title; R.S.C., c. 165, s. 38; or

(f.) any document which is made, under any Act, evidence of the registering or recording or declaring of any such deed, instrument or title; R.S.C., c. 165, s. 38; or

(g.) any document which is made by any Act evidence affecting the title to land; or

(h.) any notarial act or document or authenticated copy, or any *procès-verbal* of a surveyor or authenticated copy thereof; R.S.C., c. 165, s. 38; or

(i.) any register of births, baptisms, marriages, deaths or burials authorized or required by law to be kept, or any certified copy of any entry in or extract from any such register; R.S.C., c. 165, s. 43; or

(j.) any copy of any such register required by law to be transmitted by or to any registrar or other officer; R.S.C., c. 165, s. 44; or

(k.) any will, codicil or other testamentary document, either of a dead or living person, or any probate or letters of administration, whether with or without the will annexed; R.S.C., c. 165, s. 27; or

(l.)



(*l.*) any transfer or assignment of any share or interest in any stock, annuity or public fund of the United Kingdom or any part thereof or of Canada or any part thereof, or of any dominion, possession or colony of Her Majesty, or of any foreign state or country, or receipt or certificate for interest accruing thereon ; R.S.C., c. 165, ss. 8 and 25 ; or

(*m.*) any transfer or assignment of any share or interest in the debt of any public body, company or society, British, Canadian or foreign, or of any share or interest in the capital stock of any such company or society, or receipt or certificate for interest accruing thereon ; R.S.C., c. 165, s. 8 ; or

(*n.*) any transfer or assignment of any share or interest in any claim to a grant of land from the Crown, or to any scrip or other payment or allowance in lieu of any such grant of land ; R.S.C., c. 165, s. 8 ; or

(*o.*) any power of attorney or other authority to transfer any interest or share hereinbefore mentioned, or to receive any dividend or money payable in respect of any such share or interest ; R.S.C., c. 165, s. 8 ; or

(*p.*) any entry in any book or register, or any certificate, coupon, share, warrant or other document which by any law or any recognized practice is evidence of the title of any person to any such stock, interest or share, or to any dividend or interest payable in respect thereof ; R.S.C., c. 165, s. 11 ; or

(*q.*) any exchequer bill or endorsement thereof, or receipt or certificate for interest accruing thereon ; R.S.C., c. 165, s. 13 ; or

(*r.*) any bank note or bill of exchange, promissory note or cheque, or any acceptance, endorsement or assignment thereof ; R.S.C., c. 165, ss. 18, 25 and 28 ; or

(*s.*) any scrip in lieu of land ; R.S.C., c. 165, s. 13 ; or

(*t.*) any document which is evidence of title to any portion of the debt of any dominion, colony, or possession of Her Majesty, or of any foreign state, or any transfer or assignment thereof ; or

(*u.*) any deed, bond, debenture, or writing obligatory, or any warrant, order, or other security for money or payment of money, whether negotiable or not, or endorsement or assignment thereof ; R.S.C., c. 165, ss. 26 and 32 ; or

(*v.*) any accountable receipt or acknowledgment of the deposit, receipt, or delivery of money or goods, or endorsement or assignment thereof ; R.S.C., c. 165, s. 29 ; or

(*w.*) any bill of lading, charter-party, policy of insurance, or any shipping document accompanying a bill of lading, or any endorsement or assignment thereof ; or

(*x.*) any warehouse receipt, dock warrant, dock-keeper's certificate, delivery order, or warrant for the delivery of goods, or of any valuable thing, or any endorsement or assignment thereof ; or

(*y.*) any other document used in the ordinary course of business as proof of the possession or control of goods, or as authorizing,

authorizing, either on endorsement or delivery, the possessor of such document to transfer or receive any goods.

(B.) To fourteen years' imprisonment if the document forged purports to be, or was intended by the offender to be understood to be, or to be used as—

(a.) any entry or document made, issued, kept or lodged under any Act for or relating to the registry of any instrument respecting or concerning the title to, or any claim upon, any personal property ; R.S.C., c. 165, s. 38.

(b.) any public register or book not hereinbefore mentioned appointed by law to be made or kept, or any entry therein. R.S.C., s. 165, s. 7.

(C.) To seven years' imprisonment if the document forged purports to be, or was intended by the offender to be understood to be, or to be used as—

(a.) any record of any court of justice, or any document whatever belonging to or issuing from any court of justice, or being or forming part of any proceeding therein ; or

(b.) any certificate, office copy, or certified copy or other document which, by any statute in force for the time being, is admissible in evidence ; or

(c.) any document made or issued by any judge, officer or clerk of any court of justice, or any document upon which, by the law or usage at the time in force, any court of justice or any officer might act ; or

(d.) any document which any magistrate is authorized or required by law to make or issue ; or

(e.) any entry in any register or book kept, under the provisions of any law, in or under the authority of any court of justice or magistrate acting as such ; or

(f.) any copy of any letters patent, or of the enrolment or enrolment of letters patent, or of any certificates thereof ; R.S.C., c. 165, s. 6 ; or

(g.) any license or certificate for or of marriage ; R.S.C., c. 165, s. 42 ; or

(h.) any contract or document which, either by itself or with others, amounts to a contract, or is evidence of a contract ; or

(i.) any power or letter of attorney or mandate ; or

(j.) any authority or request for the payment of money, or for the delivery of goods, or of any note, bill, or valuable security ; R.S.C., c. 165, s. 29 ; or

(k.) any acquittance or discharge, or any voucher of having received any goods, money, note, bill or valuable security, or any instrument which is evidence of any such receipt ; R.S.C., c. 165, s. 29 ; or

(l.) any document to be given in evidence as a genuine document in any judicial proceeding ; or

(m.) any ticket or order for a free or paid passage on any carriage, tramway or railway, or on any steam or other vessel ; R.S.C., c. 165, s. 33 ; or

(n.)

(*n.*) any document other than those above mentioned.  
R.S.C., c. 165, s. 76.

**424.** Every one is guilty of an indictable offence who, knowing a document to be forged, uses, deals with, or acts upon it, or attempts to use, deal with, or act upon it, or causes or attempts to cause any person to use, deal with, or act upon it, as if it were genuine, and is liable to the same punishment as if he had forged the document.

Uttering forged documents.

2. It is immaterial where the document was forged.

**425.** Every one is guilty of an indictable offence and liable to imprisonment for life who unlawfully makes or counterfeits any public seal of the United Kingdom or any part thereof, or of Canada or any part thereof, or of any dominion, possession or colony of Her Majesty, or the impression of any such seal, or uses any such seal or impression, knowing the same to be so counterfeited. R.S.C., c. 165, s. 4.

Counterfeiting seals.

**426.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who unlawfully makes or counterfeits any seal of a court of justice, or any seal of or belonging to any registry office or burial board, or the impression of any such seal, or uses any such seal or impression knowing the same to be counterfeited. R.S.C., c. 165, ss. 35, 38 and 43.

Counterfeiting seals of courts, registry offices, &c.

**427.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who prints any proclamation, order, regulation or appointment, or notice thereof, and causes the same falsely to purport to have been printed by the Queen's Printer for Canada, or the Government Printer for any province of Canada, as the case may be, or tenders in evidence any copy of any proclamation, order, regulation or appointment which falsely purports to have been printed as aforesaid, knowing that the same was not so printed. R.S.C., c. 165, s. 37.

Unlawfully printing proclamation, &c.

**428.** Every one is guilty of an indictable offence who, with intent to defraud, causes or procures any telegram to be sent or delivered as being sent by the authority of any person, knowing that it is not sent by such authority, with intent that such telegram should be acted on as being sent by that person's authority, and is liable, upon conviction thereof, to the same punishment as if he had forged a document to the same effect as that of the telegram.

Sending telegrams in false names.

**429.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, with intent to injure or alarm any person, sends, causes, or procures to be sent any telegram or letter or other message containing matter which he knows to be false.

Sending false telegrams.

Possessing  
forged bank  
notes.

**430.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, without lawful authority or excuse (the proof whereof shall lie on him), purchases or receives from any person or has in his custody or possession, any forged bank note, or forged blank bank note, whether complete or not, knowing it to be forged. R.S.C., c. 165, s. 19.

Drawing do-  
cument  
without au-  
thority.

**431.** Every one is guilty of an indictable offence who, with intent to defraud and without lawful authority or excuse, makes or executes, draws, signs, accepts or endorses, in the name or on the account of another person, by procuration or otherwise, any document, or makes use of or utters any such document knowing it to be so made, executed, signed, accepted or endorsed, and is liable to the same punishment as if he had forged such document. R.S.C., c. 165, s. 30.

Using probate  
obtained by  
forgery or  
perjury.

**432.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment, who—

(a.) demands, receives, obtains or causes, or procures to be delivered or paid to any person, anything under, upon, or by virtue of any forged instrument knowing the same to be forged, or under, upon, or by virtue of any probate or letters of administration, knowing the will, codicil, or testamentary writing on which such probate or letters of administration were obtained to be forged, or knowing the probate or letters of administration to have been obtained by any false oath, affirmation, or affidavit; or

(b.) attempts to do any such thing as aforesaid. R.S.C., c. 165, s. 45.

#### PART XXXII.

#### PREPARATION FOR FORGERY AND OFFENCES RESEMBLING FORGERY.

Interpretation  
of terms.

**433.** In this part the following expressions are used in the following senses:

(a.) "Exchequer bill paper" means any paper provided by the proper authority for the purpose of being used as exchequer bills, exchequer bonds, notes, debentures, or other securities mentioned in section four hundred and twenty;

(b.) "Revenue paper" means any paper provided by the proper authority for the purpose of being used for stamps, licenses, or permits, or for any other purpose connected with the public revenue.

Instruments  
of forgery.

**434.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, without lawful authority or excuse (the proof whereof shall lie on him)—

(a.)



(a.) makes, begins to make, uses or knowingly has in his possession, any machinery or instrument or material for making exchequer bill paper, revenue paper or paper intended to resemble the bill paper of any firm or body corporate, or person carrying on the business of banking; R.S.C., c. 165, ss. 14, 16, 20 and 24; or

(b.) engraves or makes upon any plate or material anything purporting to be, or apparently intended to resemble, the whole or any part of any exchequer bill or bank note; R.S.C., c. 165, ss. 20, 22 and 24; or

(c.) uses any such plate or material for printing any part of any such exchequer bill or bank note; R.S.C., c. 165, ss. 22 and 23; or

(d.) knowingly has in his possession any such plate or material as aforesaid; R.S.C., c. 165, ss. 22 and 23; or

(e.) makes, uses or knowingly has in his possession any exchequer bill paper, revenue paper, or any paper intended to resemble any bill paper of any firm, body corporate, company, or person, carrying on the business of banking, or any paper upon which is written or printed the whole or any part of any exchequer bill, or of any bank note; R.S.C., c. 165, ss. 15, 16, 20 and 24.

(f.) engraves or makes upon any plate or material anything intended to resemble the whole or any distinguishing part of any bond or undertaking for the payment of money used by any dominion, colony or possession of Her Majesty, or by any foreign prince or state, or by any body corporate, or other body of the like nature, whether within Her Majesty's dominions or without; R.S.C., c. 165, s. 25; or

(g.) uses any such plate or other material for printing the whole or any part of such bond or undertaking; R.S.C., c. 165, s. 25; or

(h.) knowingly offers, disposes of or has in his possession any paper upon which such bond or undertaking, or any part thereof, has been printed; R.S.C., c. 165, s. 25.

**135.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who—

(a.) fraudulently counterfeits any stamp, whether impressed or adhesive, used for the purposes of revenue by the Government of the United Kingdom or of Canada, or by the Government of any province of Canada, or of any possession or colony of Her Majesty, or by any foreign prince or state; or

(b.) knowingly sells or exposes for sale, or utters or uses any such counterfeit stamp; or

(c.) without lawful excuse (the proof whereof shall lie on him) makes, or has knowingly in his possession, any die or instrument capable of making the impression of any such stamp as aforesaid, or any part thereof; or

(d.)

(d.) fraudulently cuts, tears or in any way removes from any material any such stamp, with intent that any use should be made of such stamp or of any part thereof; or

(e.) fraudulently mutilates any such stamp with intent that any use would be made of any part of such stamp; or

(f.) fraudulently fixes or places upon any material, or upon any such stamp, as aforesaid, any stamp or part of a stamp which, whether fraudulently or not, has been cut, torn, or in any other way removed from any other material or out of or from any other stamp; or

(g.) fraudulently erases, or otherwise, either really or apparently, removes, from any stamped material any name, sum, date, or other matter or thing thereon written, with the intent that any use should be made of the stamp upon such material; or

(h.) knowingly and without lawful excuse (the proof whereof shall lie upon him) has in his possession any stamp or part of a stamp which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise, either really or apparently, removed; R.S.C., c. 165, s. 17; or

(i.) without lawful authority makes or counterfeits any mark or brand used by the Government of the United Kingdom of Great Britain and Ireland, the Government of Canada, or the Government of any province of Canada, or by any department or officer of any such Government for any purpose in connection with the service or business of such Government, or the impression of any such mark or brand, or sells or exposes for sale or has in his possession any goods having thereon a counterfeit of any such mark or brand knowing the same to be a counterfeit, or affixes any such mark or brand to any goods required by law to be marked or branded other than those to which such mark or brand was originally affixed.

Falsifying registers.

**436.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment, who—

(a.) unlawfully destroys, defaces or injures any register of births, baptisms, marriages, deaths or burials required or authorized by law to be kept in Canada, or any part thereof, or any copy of such register, or any part thereof required by law to be transmitted to any registrar or other officer; or

(b.) unlawfully inserts in any such register, or any such copy thereof, any entry, known by him to be false, of any matter relating to any birth, baptism, marriage, death or burial, or erases from any such register or document any material part thereof. R.S.C., c. 165, ss. 43 and 44.

Falsifying extracts from registers.

**437.** Every one is guilty of an indictable offence and liable to ten years' imprisonment, who—

(a.)

(a.) being a person authorized or required by law to give any certified copy of any entry in any such register as in the last preceding section mentioned, certifies any writing to be a true copy or extract, knowing it to be false, or knowingly utters any such certificate ;

(b.) unlawfully and for any fraudulent purpose takes any such register or certified copy from its place of deposit or conceals it ;

(c.) being a person having the custody of any such register or certified copy, permits it to be so taken or concealed as aforesaid. R.S.C., c. 165, s. 44.

**438.** Every one is guilty of an indictable offence and liable to seven years' imprisonment, who— Uttering false certificates.

(a.) being by law required to certify that any entry has been made in any such register as in the two last preceding sections mentioned makes such certificate knowing that such entry has not been made ; or

(b.) being by law required to make a certificate or declaration concerning any particular required for the purpose of making entries in such register knowingly makes such certificate or declaration containing a falsehood ; or

(c.) being an officer having custody of the records of any court, or being the deputy of any such officer, wilfully utters a false copy or certificate of any record ; or

(d.) not being such officer or deputy fraudulently signs or certifies any copy or certificate of any record, or any copy of any certificate, as if he were such officer or deputy. R.S.C., c. 165, ss. 35 and 43.

**439.** Every one is guilty of an indictable offence and liable to two years' imprisonment, who— Forging certificates.

(a.) being an officer required or authorized by law to make or issue any certified copy of any document or of any extract from any document wilfully certifies, as a true copy of any document or of any extract from any such document, any writing which he knows to be untrue in any material particular ; or

(b.) not being such officer as aforesaid fraudulently signs or certifies any copy of any document, or of any extract from any document, as if he were such officer.

**440.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, with intent to defraud— Making false entries in books relating to public funds.

(a.) makes any untrue entry or any alteration in any book of account kept by the Government of Canada, or of any province of Canada, or by any bank for any such Government, in which books are kept the accounts of the owners of any stock, annuity or other public fund transferable for the time being in any such books, or who, in any manner, wilfully falsifies any of the said books ; or

(b.)

(b.) makes any transfer of any share or interest of or in any stock, annuity or public fund, transferable for the time being at any of the said banks, in the name of any person other than the owner of such share or interest. R.S.C., c. 165, s. 11.

Clerks issuing false dividend warrants.

**441.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being in the employment of the Government of Canada, or of any province of Canada, or of any bank in which any books of account mentioned in the last preceding section are kept, with intent to defraud, makes out or delivers any dividend warrant, or any warrant for the payment of any annuity, interest or money payable at any of the said banks, for an amount greater or less than that to which the person on whose account such warrant is made out is entitled. R.S.C., c. 165, s. 12.

Printing circulars, &c., in likeness of notes.

**442.** Every one is guilty of an offence and liable, on summary conviction before two justices of the peace, to a fine of one hundred dollars or three months' imprisonment, or both, who designs, engraves, prints or in any manner makes, executes, utters, issues, distributes, circulates or uses any business or professional card, notice, placard, circular, hand-bill or advertisement in the likeness or similitude of any bank note, or any obligation or security of any Government or any bank. 50-51 V., c. 47, s. 2; 53 V., c. 31, s. 3.

#### PART XXXIII.

### FORGERY OF TRADE MARKS—FRAUDULENT MARKING OF MERCHANDISE.

Definitions.

**443.** In this part—

(a.) the expression "trade mark" means a trade mark or industrial design registered in accordance with *The Trade Mark and Design Act* and the registration whereof is in force under the provisions of the said Act, and includes any trade mark which, either with or without registration, is protected by law in any British possession or foreign state to which the provisions of section one hundred and three of the Act of the United Kingdom, known as *The Patents, Designs, and Trade Marks Act, 1883*, are, in accordance with the provisions of the said Act, for the time being applicable;

(b.) the expression "trade description" means any description, statement, or other indication, direct or indirect—

(i.) as to the number, quantity, measure, gauge or weight of any goods;

(ii.) as to the place or country in which any goods are made or produced;

(iii.) as to the mode of manufacturing or producing any goods;

(iv.)



(iv.) as to the material of which any goods are composed ;

(v.) as to any goods being the subject of an existing patent, privilege or copyright ;

And the use of any figure, word, or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters, is a trade description within the meaning of this part ;

(c.) the expression " false trade description " means a trade description which is false in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement, or otherwise, where that alteration makes the description false in a material respect ; and the fact that a trade description is a trade mark, or part of a trade mark, shall not prevent such trade description being a false trade description within the meaning of this part ;

(d.) the expression " goods " means anything which is merchandise or the subject of trade or manufacture ;

(e.) the expression " covering " includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper ; and the expression " label " includes any band or ticket ;

(f.) the expressions " person, manufacturer, dealer, or trader," and " proprietor " include any body of persons corporate or unincorporate ;

(g.) the expression " name " includes any abbreviation of a name.

2. The provisions of this part respecting the application of a false trade description to goods extend to the application to goods of any such figures, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are.

3. The provisions of this part respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and the expression " false name or initials " means, as applied to any goods, any name or initials of a person which—

(a.) are not a trade mark, or part of a trade mark ;

(b.) are identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description, and not having authorized the use of such name or initials ;

(c.) are either those of a fictitious person or of some person not *bona fide* carrying on business in connection with such goods. 51 V., c. 41, s. 2.

Words or  
marks on  
watch cases.

**444.** Where a watch case has thereon any words or marks which constitute, or are by common repute considered as constituting, a description of the country in which the watch was made, and the watch bears no such description, those words or marks shall *prima facie* be deemed to be a description of that country within the meaning of this part, and the provision of this part with respect to goods to which a false description has been applied, and with respect to selling or exposing, or having in possession, for sale, or any purpose of trade or manufacture, goods with a false trade description, shall apply accordingly; and for the purposes of this section the expression "watch" means all that portion of a watch which is not the watch case. 51 V., c. 41, s. 11.

Definition of  
forgery of a  
trade mark.

**445.** Every one is deemed to forge a trade mark who either—

(a.) without the assent of the proprietor of the trade mark makes that trade mark or a mark so nearly resembling it as to be calculated to deceive; or

(b.) falsifies any genuine trade mark, whether by alteration, addition, effacement or otherwise.

2. And any trade mark or mark so made or falsified is, in this part, referred to as a forged trade mark. 51 V., c. 41, s. 3.

Applying  
trade marks  
to goods.

**446.** Every one is deemed to apply a trade mark, or mark, or trade description to goods who—

(a.) applies it to the goods themselves; or

(b.) applies it to any covering, label, reel, or other thing in or with which the goods are sold or exposed or had in possession for any purpose of sale, trade or manufacture; or

(c.) places, incloses or annexes any goods which are sold or exposed or had in possession for any purpose of sale, trade or manufacture in, with or to any covering, label, reel, or other thing to which a trade mark or trade description has been applied; or

(d.) uses a trade mark or mark or trade description in any manner calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade mark or mark or trade description.

2. A trade mark or mark or trade description is deemed to be applied whether it is woven, impressed or otherwise worked into, or annexed or affixed to, the goods, or to any covering, label, reel or other thing.

3. Every one is deemed to falsely apply to goods a trade mark or mark who, without the assent of the proprietor of the trade mark, applies such trade mark, or a mark so nearly resembling it as to be calculated to deceive. 51 V., c. 41, s. 4.

Forgery of  
trade marks,  
&c.

**447.** Every one is guilty of an indictable offence who, with intent to defraud—

(a.) forges any trade mark; or

(b.)

(b.) falsely applies to any goods any trade mark, or any mark so nearly resembling a trade mark as to be calculated to deceive ; or

(c.) makes any die, block, machine or other instrument, for the purpose of forging, or being used for forging, a trade mark ; or

(d.) applies any false trade description to goods ; or

(e.) disposes of, or has in his possession, any die, block, machine or other instrument, for the purpose of forging a trade mark ; or

(f.) causes any of such things to be done. 51 V., c. 41, s. 6.

**448.** Every one is guilty of an indictable offence who sells or exposes, or has in his possession, for sale, or any purpose of trade or manufacture, any goods or things to which any forged trade mark or false trade description is applied, or to which any trade mark, or mark so nearly resembling a trade mark as to be calculated to deceive, is falsely applied, as the case may be, unless he proves—

Selling goods falsely marked ; defence.

(a.) that having taken all reasonable precaution against committing such an offence he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark or trade description ; and

(b.) that on demand made by or on behalf of the prosecutor he gave all the information in his power with respect to the persons from whom he obtained such goods or things ; and

(c.) that otherwise he had acted innocently. 51 V., c. 41, s. 6.

**449.** Every one is guilty of an indictable offence who sells, or exposes or offers for sale, or traffics in, bottles marked with a trade mark, blown or stamped or otherwise permanently affixed thereon, without the assent of the proprietor of such trade mark. 51 V., c. 41, s. 7.

Selling bottles marked with trade mark without consent of owner.

**450.** Every one guilty of any offence defined in this part is liable—

Punishment of offences defined in this part.

(a.) on conviction on indictment to two years' imprisonment, with or without hard labour, or to fine, or to both imprisonment and fine ; and

(b.) on summary conviction, to four months' imprisonment, with or without hard labour, or to a fine not exceeding one hundred dollars ; and in case of a second or subsequent conviction to six months' imprisonment, with or without hard labour, or to a fine not exceeding two hundred and fifty dollars.

2. In any case every chattel, article, instrument or thing, by means of, or in relation to which, the offence has been committed shall be forfeited. 51 V., c. 41, s. 8.

Falsely representing that goods are manufactured by Her Majesty, &c.

**451.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding one hundred dollars who falsely represents that any goods are made by a person holding a royal warrant, or for the service of Her Majesty or any of the royal family, or any Government department of the United Kingdom or of Canada. 51 Vic., c. 41, s. 21.

Unlawful importation of goods liable to forfeiture under this part.

**452.** Every one is guilty of an offence and liable, on summary conviction, to a penalty of not more than five hundred dollars nor less than two hundred dollars who imports or attempts to import any goods which, if sold, would be forfeited under the provisions of this part, or any goods manufactured in any foreign state or country which bear any name or trade mark which is or purports to be the name or trade mark of any manufacturer, dealer or trader in the United Kingdom or in Canada, unless such name or trade mark is accompanied by a definite indication of the foreign state or country in which the goods were made or produced; and such goods shall be forfeited. 51 V., c. 41, s. 22.

Defence where person charged innocently in the ordinary course of business makes instruments for forging trade marks.

**453.** Any one who is charged with making any die, block, machine or other instrument for the purpose of forging, or being used for forging, a trade mark, or with falsely applying to goods any trade mark, or any mark so nearly resembling a trade mark as to be calculated to deceive, or with applying to goods any false trade description, or causing any of the things in this section mentioned to be done, and proves—

(a.) that in the ordinary course of his business he is employed, on behalf of other persons, to make dies, blocks, machines or other instruments for making or being used in making trade marks, or, as the case may be, to apply marks or descriptions to goods, and that in the case which is the subject of the charge he was so employed by some person resident in Canada, and was not interested in the goods by way of profit or commission dependent on the sale of such goods; and

(b.) that he took reasonable precaution against committing the offence charged; and

(c.) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark or trade description; and

(d.) that he gave to the prosecutor all the information in his power with respect to the person by or on whose behalf the trade mark, mark or description was applied;—

shall be discharged from the prosecution but is liable to pay the costs incurred by the prosecutor, unless he has given due notice to him that he will rely on the above defence. 51 V., c. 41, s. 5.

Defence where offender is a servant

**454.** No servant of a master, resident in Canada, who *bonâ fide* acts in obedience to the instructions of such master, and, on



on demand made by or on behalf of the prosecutor, gives, full information as to his master, is liable to any prosecution or punishment for any offence defined in this part. 51 V., c. 41, s. 20.

**455.** The provisions of this part with respect to false trade descriptions do not apply to any trade description which, on the 22nd day of May, 1888, was lawfully and generally applied to goods of a particular class, or manufactured by a particular method, to indicate the particular class or method of manufacture of such goods: Provided, that where such trade description includes the name of a place or country, and is calculated to mislead as to the place or country where the goods to which it is applied were actually made or produced, and the goods are not actually made or produced in that place or country, such provisions shall apply unless there is added to the trade description, immediately before or after the name of that place or country, in an equally conspicuous manner with that name, the name of the place or country in which the goods were actually made or produced, with a statement that they were made or produced there. 51 V., c. 41, s. 19.

Exception respecting trade description lawfully applied to goods on 22nd May, 1888, &c.

#### PART XXXIV.

#### PERSONATION.

**456.** Every one is guilty of an indictable offence, and liable to fourteen years' imprisonment, who with intent fraudulently to obtain any property, personates any person, living or dead, or administrator, wife, widow, next of kin or relation of any person.

Personation.

**457.** Every one is guilty of an indictable offence, and liable on indictment or summary conviction to one year's imprisonment, or to a fine of one hundred dollars, who falsely, with intent to gain some advantage for himself or some other person, personates a candidate at any competitive or qualifying examination, held under the authority of any law or statute or in connection with any university or college, or who procures himself or any other person to be personated at any such examination, or who knowingly avails himself of the results of such personation.

Personation at examinations.

**458.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who falsely and deceitfully personates—

Personation of public persons.

(a.) any owner of any share or interest of or in any stock, annuity, or other public fund transferable in any book of account kept by the Government of Canada or of any province thereof, or by any bank for any such Government; or

(b.)

(b.) any owner of any share or interest of or in the debt of any public body, or of or in the debt or capital stock of any body corporate, company, or society ; or

(c.) any owner of any dividend, coupon, certificate or money payable in respect of any such share or interest as aforesaid ; or

(d.) any owner of any share or interest in any claim for a grant of land from the Crown, or for any scrip or other payment or allowance in lieu of such grant of land ; or

(e.) any person duly authorized by any power of attorney to transfer any such share, or interest, or to receive any dividend, coupon, certificate or money, on behalf of the person entitled thereto—

and thereby transfers or endeavours to transfer any share or interest belonging to such owner, or thereby obtains or endeavours to obtain, as if he were the true and lawful owner or were the person so authorized by such power of attorney, any money due to any such owner or payable to the person so authorized, or any certificate, coupon, or share warrant, grant of land, or scrip, or allowance in lieu thereof, or other document which, by any law in force, or any usage existing at the time, is deliverable to the owner of any such stock or fund, or to the person authorized by any such power of attorney. R.S.C. c. 165, s. 9.

Acknowledging instrument in false name.

**459.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, without lawful authority or excuse (the proof of which shall lie on him) acknowledges, in the name of any other person, before any court, judge or other person lawfully authorized in that behalf, any recognizance of bail, or any *cognovit actionem*, or consent for judgment, or judgment, or any deed or other instrument. R.S.C., c. 165, s. 41.

#### PART XXXV.

#### OFFENCES RELATING TO THE COIN.

Interpretation of terms.

**460.** In this part, unless the context otherwise requires, the following words and expressions are used in the following senses :—

(a.) "Current gold or silver coin," includes any gold or silver coin coined in any of Her Majesty's mints, or gold or silver coin of any foreign prince or state or country, or other coin lawfully current, by virtue of any proclamation or otherwise, in any part of Her Majesty's dominions.

(b.) "Current copper coin," includes copper coin coined in any of Her Majesty's mints, or lawfully current, by virtue of any proclamation or otherwise, in any part of Her Majesty's dominions.

(c.) "Copper coin," includes any coin of bronze or mixed metal and every other kind of coin other than gold or silver.

(d.)

(d.) "Counterfeit" means false, not genuine.

(i.) Any genuine coin prepared or altered so as to resemble or pass for any current coin of a higher denomination is a counterfeit coin.

(ii.) A coin fraudulently filed or cut at the edges so as to remove the milling, and on which a new milling has been added to restore the appearance of the coin, is a counterfeit coin.

(e.) "Gild" and "silver," as applied to coin, include casing with gold or silver respectively, and washing and colouring by any means whatsoever with any wash or materials capable of producing the appearance of gold or silver respectively.

(f.) "Utter" includes "tender" and "put off." R.S.C., c. 167, s. 1.

**461.** Every offence of making any counterfeit coin, or of buying, selling, receiving, paying, tendering, uttering, or putting off, or of offering to buy, sell, receive, pay, utter or put off, any counterfeit coin is deemed to be complete, although the coin so made or counterfeited, or bought, sold, received, paid, tendered, uttered or put off, or offered to be bought, sold, received, paid, tendered, uttered or put off, was not in a fit state to be uttered, or the counterfeiting thereof was not finished or perfected. R.S.C., c. 167, s. 27. When offence completed.

**462.** Every one is guilty of an indictable offence and liable to imprisonment for life who— Counterfeiting coins, &c.

(a.) makes or begins to make any counterfeit coin resembling, or apparently intended to resemble or pass for, any current gold or silver coin; or

(b.) gilds or silvers any coin resembling or apparently intended to resemble or pass for, any current gold or silver coin; or

(c.) gilds or silvers any piece of silver or copper, or of coarse gold or coarse silver, or of any metal or mixture of metals respectively, being of a fit size and figure to be coined, and with intent that the same shall be coined into counterfeit coin resembling, or apparently intended to resemble or pass for, any current gold or silver coin; or

(d.) gilds any current silver coin, or files or in any manner alters such coin, with intent to make the same resemble or pass for any current gold coin; or

(e.) gilds or silvers any current copper coin, or files or in any manner alters such coin, with intent to make the same resemble or pass for any current gold or silver coin. R.S.C., c. 167, ss. 3 and 4.

**463.** Every one is guilty of an indictable offence and liable to imprisonment for life who, without lawful authority or excuse the proof whereof shall lie on him— Dealing in and importing counterfeit coin.

(a.)

(a.) buys, sells, receives, pays or puts off, or offers to buy, sell, receive, pay or put off, at or for a lower rate or value than the same imports, or was apparently intended to import, any counterfeit coin resembling or apparently intended to resemble or pass for any current gold or silver coin ; or

(b.) imports or receives into Canada any counterfeit coin resembling or apparently intended to resemble or pass for, any current gold or silver coin knowing the same to be counterfeit. R.S.C., c. 167, ss. 7 and 8.

Manufacture of copper coin and importation of uncurrent copper coin.

**464.** Every one who manufactures in Canada any copper coin, or imports into Canada any copper coin, other than current copper coin, with the intention of putting the same into circulation as current copper coin, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars for every pound Troy of the weight thereof ; and all such copper coin so manufactured or imported shall be forfeited to Her Majesty. R.S.C., c. 167, s. 28.

Exportation of counterfeit coin.

**465.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, without lawful authority or excuse the proof whereof shall lie on him, exports or puts on board any ship, vessel or boat, or on any railway or carriage or vehicle of any description whatsoever, for the purpose of being exported from Canada, any counterfeit coin resembling or apparently intended to resemble or pass for any current coin or for any foreign coin of any prince, country or state, knowing the same to be counterfeit. R.S.C., c. 167, s. 9.

Making instruments for coining.

**466.** Every one is guilty of an indictable offence and liable to imprisonment for life who, without lawful authority or excuse the proof whereof shall lie on him, makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession—

(a.) any puncheon, counter puncheon, matrix, stamp, die, pattern or mould, in or upon which there is made or impressed, or which will make or impress, or which is adapted and intended to make or impress, the figure, stamp or apparent resemblance of both or either of the sides of any current gold or silver coin, or of any coin of any foreign prince, state or country, or any part or parts of both or either of such sides ; or

(b.) any edger, edging or other tool, collar, instrument or engine adapted and intended for the marking of coin round the edges with letters, grainings, or other marks or figures apparently resembling those on the edges of any such coin, knowing the same to be so adapted and intended ; or

(c.) any press for coinage, or any cutting engine for cutting, by force of a screw or of any other contrivance, round blanks out of gold, silver or other metal or mixture of metals, or any other machine, knowing such press to be a press for coinage, or knowing such engine or machine to have been

used



used or to be intended to be used for or in order to the false making or counterfeiting of any such coin. R.S.C., c. 167, s. 24.

**467.** Every one is guilty of an indictable offence and liable to imprisonment for life who, without lawful authority or excuse the proof whereof shall lie on him, knowingly conveys out of any of Her Majesty's mints into Canada, any puncheon, counter puncheon, matrix, stamp, die, pattern, mould, edger, edging or other tool, collar, instrument, press or engine, used or employed in or about the coining of coin, or any useful part of any of the several articles aforesaid, or any coin, bullion, metal or mixture of metals. R.S.C., c. 167, s. 25.

Bringing instruments for coining from mints into Canada.

**468.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who impairs, diminishes or lightens any current gold or silver coin, with intent that the coin so impaired, diminished, or lightened may pass for current gold or silver coin. R.S.C., c. 167, s. 5.

Clipping current gold or silver coin.

**469.** Every one is guilty of an indictable offence and liable to one year's imprisonment who defaces any current gold, silver or copper coin by stamping thereon any names or words, whether such coin is or is not thereby diminished or lightened, and afterwards tenders the same. R.S.C., c. 167, s. 17.

Defacing current coins.

**470.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who unlawfully has in his custody or possession any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution or otherwise, which have been produced or obtained by impairing, diminishing or lightening any current gold or silver coin, knowing the same to have been so produced or obtained. R.S.C., c. 167, s. 6.

Possessing clippings of current coin.

**471.** Every one is guilty of an indictable offence and liable to three years' imprisonment who has in his custody or possession, knowing the same to be counterfeit, and with intent to utter the same or any of them—

Possessing counterfeit coins.

(a.) any counterfeit coin resembling, or apparently intended to resemble or pass for, any current gold or silver coin; or

(b.) three or more pieces of counterfeit coin resembling, or apparently intended to resemble or pass for, any current copper coin. R.S.C., c. 167, ss. 12 and 16.

**472.** Every one is guilty of an indictable offence and liable to three years' imprisonment who—

Offences respecting copper coin.

(a.) makes, or begins to make, any counterfeit coin resembling, or apparently intended to resemble or pass for, any current copper coin; or

b.

(b.) without lawful authority or excuse, the proof of which shall lie on him, knowingly -

(i.) makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession, any instrument, tool or engine adapted and intended for counterfeiting any current copper coin ;

(ii.) buys, sells, receives, pays or puts off, or offers to buy, sell, receive, pay or put off, any counterfeit coin resembling, or apparently intended to resemble or pass for any current copper coin, at or for a lower rate of value than the same imports or was apparently intended to import. R.S.C., c. 167, s. 15.

Offences respecting foreign coins.

**473.** Every one is guilty of an indictable offence and liable to three years' imprisonment who—

(a.) makes, or begins to make, any counterfeit coin or silver coin resembling, or apparently intended to resemble or pass for, any gold or silver coin of any foreign prince, state or country, not being current coin ;

(b.) without lawful authority or excuse, the proof of which shall lie on him—

(i.) brings into or receives in Canada any such counterfeit coin, knowing the same to be counterfeit ;

(ii.) has in his custody or possession any such counterfeit coin knowing the same to be counterfeit, and with intent to put off the same ; or

(c.) utters any such counterfeit coin ; or

(d.) makes any counterfeit coin resembling, or apparently intended to resemble or pass for, any copper coin of any foreign prince, state or country, not being current coin. R.S.C., c. 167, ss. 19, 20, 21, 22 and 23.

Uttering counterfeit gold or silver coins.

**474.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who utters any counterfeit coin resembling, or apparently intended to resemble or pass for, any current gold or silver coin, knowing the same to be counterfeit. R.S.C., c. 167, s. 10.

Uttering light coins, medals, counterfeit copper coins, &c.

**475.** Every one is guilty of an indictable offence and liable to three years' imprisonment who—

(a.) utters, as being current, any gold or silver coin of less than its lawful weight, knowing such coin to have been impaired, diminished or lightened, otherwise than by lawful wear ; or

(b.) with intent to defraud utters, as or for any current gold or silver coin, any coin not being such current gold or silver coin, or any medal, or piece of metal or mixed metals, resembling, in size, figure and colour, the current coin as or for which the same is so uttered, such coin, medal or piece of metal or mixed metals so uttered being of less value than the current coin as or for which the same is so uttered ; or

(c.)

(c.) utters any counterfeit coin resembling or apparently intended to resemble or pass for any current copper coin, knowing the same to be counterfeit. R.S.C., c. 167, ss. 11, 14 and 16.

**476.** Every one who utters any coin defaced by having stamped thereon any names or words, is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty not exceeding ten dollars. R.S.C., c. 167, s. 18.

**477.** Every one who utters, or offers in payment, any copper coin, other than current copper coin, is guilty of an offence and liable on summary conviction, to a penalty of double the nominal value thereof, and in default of payment of such penalty to eight days' imprisonment. R.S.C., c. 167, s. 33.

**478.** Every one who, after a previous conviction of any offence relating to the coin under this or any other Act, is convicted of any offence specified in this part is liable to the following punishment :—

(a.) to imprisonment for life if otherwise fourteen years would have been the longest term of imprisonment to which he would have been liable;

(b.) to fourteen years' imprisonment, if otherwise seven years would have been the longest term of imprisonment to which he would have been liable;

(c.) to seven years' imprisonment, if otherwise he would not have been liable to seven years' imprisonment. R.S.C., c. 167, s. 13.

#### PART XXXVI.

#### ADVERTISING COUNTERFEIT MONEY.

**479.** In this part the expression "counterfeit token of value" means any spurious or counterfeit coin, paper money, inland revenue stamp, postage stamp, or other evidence of value, by whatever technical, trivial or deceptive designation the same may be described. 51 V., c. 40, s. 1.

**480.** Every one is guilty of an indictable offence and liable to five years' imprisonment who—

(a.) prints, writes, utters, publishes, sells, lends, gives away, circulates or distributes any letter, writing, circular, paper, pamphlet, handbill or any written or printed matter advertising, or offering or purporting to advertise or offer for sale, loan, exchange, gift or distribution, or to furnish, procure or distribute, any counterfeit token of value, or what purports to be a counterfeit token of value, or giving or purporting to give, either directly or indirectly, information where,

where, how, of whom, or by what means any counterfeit token of value, or what purports to be a counterfeit token of value, may be procured or had ; or

(b.) purchases, exchanges, accepts, takes possession of or in any way uses, or offers to purchase, exchange, accept, take possession of or in any way use, or negotiates or offers to negotiate with a view of purchasing or obtaining or using any such counterfeit token of value, or what purports so to be ; or

(c.) in executing, operating, promoting or carrying on any scheme or device to defraud, by the use or by means of any papers, writings, letters, circulars or written or printed matters concerning the offering for sale, loan, gift, distribution or exchange of counterfeit tokens of value, uses any fictitious, false or assumed name or address, or any name or address other than his own right, proper and lawful name ; or

(d.) in the execution, operating, promoting or carrying on, of any scheme or device offering for sale, loan, gift or distribution, or purporting to offer for sale, loan, gift or distribution, or giving or purporting to give information, directly or indirectly, where, how, of whom or by what means any counterfeit token of value may be obtained or had, knowingly receives or takes from the mails, or from the post office, any letter or package addressed to any such fictitious, false or assumed name or address, or name other than his own right, proper or lawful name. 51 V., c. 40, ss. 2 and 3.

#### PART XXXVII.

#### MISCHIEF.

Preliminary.

**481.** Every one who causes any event by an act which he knew would probably cause it, being reckless whether such event happens or not, is deemed to have caused it wilfully for the purposes of this part.

2. Nothing shall be an offence under any provision contained in this part unless it is done without legal justification or excuse, and without colour of right.

3. Where the offence consists in an injury to anything in which the offender has an interest, the existence of such interest, if partial, shall not prevent his act being an offence, and if total, shall not prevent his act being an offence, if done with intent to defraud. R.S.C., c. 168, ss. 60 and 61.

Arson.

**482.** Every one is guilty of the indictable offence of arson and liable to imprisonment for life who wilfully sets fire to any building or structure whether such building, erection or structure is completed or not, or to any stack of vegetable produce or of mineral or vegetable fuel, or to any mine or any well of oil or other combustible substance, or to any ship



ship or vessel, whether completed or not, or to any timber or materials placed in any shipyard for building or repairing or fitting out any ship, or to any of Her Majesty's stores or munitions of war. R.S.C., c. 168, ss. 2 to 5, 7, 8, 19, 28, 46 and 47.

**483.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who wilfully attempts to set fire to anything mentioned in the last preceding section, or who wilfully sets fire to any substance so situated that he knows that anything mentioned in the last preceding section is likely to catch fire therefrom. R.S.C., c. 168, ss. 9, 10, 20, 29 and 48. Attempt to commit arson.

**484.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who wilfully sets fire to— Setting fire to crops.

(a.) any crop, whether standing or cut down, or any wood, forest, coppice or plantation, or any heath, gorse, furze or fern ; or

(b.) any tree, lumber, timber, logs, or floats, boom, dam or slide, and thereby injures or destroys the same. R.S.C., c. 168, ss. 18 and 12.

**485.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who wilfully attempts to set fire to anything mentioned in the last preceding section, or who wilfully sets fire to any substance so situated that he knows that anything mentioned in the last preceding section is likely to catch fire therefrom. R.S.C., c. 168, s. 20. Attempt to set fire to crops.

**486.** Every one is guilty of an indictable offence and liable to two years' imprisonment, who, by such negligence as shows him to be reckless or wantonly regardless of consequences, or in violation of a provincial or municipal law of the locality, sets fire to any forest, tree, manufactured lumber, square timber, logs or floats, boom, dam or slide on the Crown domain, or land leased or lawfully held for the purpose of cutting timber, or on private property, on any creek or river, or rollway, beach or wharf, so that the same is injured or destroyed. Recklessly setting fire to forest, &c.

2. The magistrate investigating any such charge may, in his discretion, if the consequences have not been serious, dispose of the matter summarily, without sending the offender for trial, by imposing a fine not exceeding fifty dollars, and in default of payment by the committal of the offender to prison for any term not exceeding six months, with or without hard labour. R.S.C., c. 168, s. 11.

**487.** Every one is guilty of an indictable offence and liable to ten years' imprisonment who sends, delivers or utters, Threats to burn, &c.

utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to burn or destroy any building, or any rick or stack of grain, hay or straw or other agricultural produce, or any grain, hay or straw or other agricultural produce in or under any building, or any ship or vessel. R.S.C., c. 173, s. 8.

Attempt to  
damage by  
gunpowder.

**488.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who wilfully places or throws any explosive substance into or near any building or ship with intent to destroy or damage the same or any machinery, working tools, or chattels whatever, whether or not any explosion takes place. R.S.C., c. 168, ss. 14 and 49.

Mischief on  
railways.

**489.** Every one is guilty of an indictable offence and liable to five years' imprisonment who, in manner likely to cause danger to valuable property, without endangering life or person—

(a.) places any obstruction upon any railway, or takes up, removes, displaces, breaks or injures any rail, sleeper or other matter or thing belonging to any railway; or

(b.) shoots or throws anything at an engine or other railway vehicle; or

(c.) interferes without authority with the points, signals or other appliances upon any railway; or

(d.) makes any false signal on or near any railway; or

(e.) wilfully omits to do any act which it is his duty to do; or

(f.) does any other unlawful act.

2. Every one who does any of the acts above mentioned with intent to cause such danger is liable to imprisonment for life. R.S.C., c. 168, ss. 37 and 38

Obstructing  
railways.

**490.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, by any act or wilful omission obstructs or interrupts, or causes to be obstructed or interrupted, the construction, maintenance or free use of any railway or any part thereof, or any matter or thing appertaining thereto or connected therewith. R.S.C., c. 168, ss. 38 and 39.

Injuries to  
packages in  
the custody of  
railways.

**491.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the value of the goods or liquors so destroyed or damaged or to one month's imprisonment with or without hard labour, or to both, who—

(a.) wilfully destroys or damages anything containing any goods or liquors in or about any railway station or building or any vehicle of any kind on any railway, or in any warehouse, ship or vessel, with intent to steal or otherwise unlawfully to obtain or to injure the contents, or any part thereof; or

(b.)

(b.) unlawfully drinks or wilfully spills or allows to run to waste any such liquors, or any part thereof. R.S.C., c. 38, s. 62; 51 V., c. 29, s. 297.

**492.** Every one is guilty of an indictable offence and liable to two years' imprisonment who wilfully— Injuries to electric telegraphs, &c.

(a.) destroys, removes or damages anything which forms part of, or is used or employed in or about any electric or magnetic telegraph, electric light, telephone or fire-alarm, or in the working thereof, or for the transmission of electricity for other lawful purposes; or

(b.) prevents or obstructs the sending, conveyance or delivery of any communication by any such telegraph, telephone or fire-alarm, or the transmission of electricity for any such electric light or for any such purpose as aforesaid.

2. Every one who wilfully, by any overt act, attempts to commit any such offence is guilty of an offence and liable, on summary conviction, to a penalty not exceeding fifty dollars, or to three months' imprisonment with or without hard labour. R.S.C., c. 168, ss. 40 and 41.

**493.** Every one is guilty of an indictable offence and liable to imprisonment for life who wilfully— Wrecking.

(a.) casts away or destroys any ship, whether complete or unfinished; or

(b.) does any act tending to the immediate loss or destruction of any ship in distress; or

(c.) interferes with any marine signal, or exhibits any false signal, with intent to bring a ship or boat into danger. R.S.C., c. 168, ss. 46 and 51.

**494.** Every one is guilty of an indictable offence, and liable to fourteen years' imprisonment, who attempts to cast away or destroy any ship, whether complete or unfinished. Attempting to wreck.  
R.S.C., c. 168, s. 48.

**495.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who wilfully alters, removes or conceals, or attempts to alter, remove or conceal, any signal, buoy or other sea mark used for the purposes of navigation. Interfering with marine signals.

2. Every one who makes fast any vessel or boat to any such signal, buoy, or sea mark is liable, on summary conviction, to a penalty not exceeding ten dollars, and in default of payment to one month's imprisonment. R.S.C., c. 168, ss. 52 and 53.

**496.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who wilfully prevents or impedes, or endeavours to prevent or impede— Preventing the saving of wrecked vessels or wreck.

(a.) the saving of any vessel that is wrecked, stranded, abandoned or in distress; or

(b.)

(b.) any person in his endeavour to save such vessel. 

2. Every one who wilfully prevents or impedes, or endeavours to prevent or impede, the saving of any wreck is guilty of an indictable offence and liable, on conviction on indictment, to two years' imprisonment, and on summary conviction before two justices of the peace, to a fine of four hundred dollars or six months' imprisonment with or without hard labour. R.S.C., c. 81, ss. 36 (b.) and 37 (c.)

Injuries to  
rafts of tim-  
ber and works  
used for the  
transmission  
thereof.

**497.** Every one is guilty of an indictable offence and liable to two years' imprisonment who wilfully—

(a.) breaks, injures, cuts, loosens, removes or destroys, in whole or in part, any dam, pier, slide, boom or other such work, or any chain or other fastening attached thereto, or any raft, crib of timber or saw-logs ; or

(b.) impedes or blocks up any channel or passage intended or the transmission of timber. R.S.C., c. 168, s. 54.

f

Mischief to  
mines.

**498.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, with intent to injure a mine or oil well, or obstruct the working thereof—

(a.) causes any water, earth, rubbish or other substance to be conveyed into the mine or oil well or any subterranean channel communicating with such mine or well ; or

(b.) damages any shaft or any passage of the mine or well ; or

(c.) damages, with intent to render useless, any apparatus, building, erection, bridge or road belonging to the mine or well, whether the object damaged be complete or not ; or

(d.) hinders the working of any such apparatus ; or

(e.) damages or unfastens, with intent to render useless, any rope, chain or tackle used in any mine or well or upon any way or work connected therewith. R.S.C., c. 168, ss. 30 and 31.

Mischief.

**499.** Every one is guilty of the indictable offence of mischief who wilfully destroys or damages any of the property hereinafter mentioned, and is liable to the punishments hereinafter specified :—

(A.) To imprisonment for life if the object damaged be—

(a.) a dwelling-house, ship or boat, and the damage be caused by an explosion, and any person be in such dwelling-house, ship or boat ; and the damage causes actual danger to life ; or

(b.) a bank, dyke or wall of the sea, or of any inland water, natural or artificial, or any work in, on, or belonging to any port, harbour, dock or inland water, natural or artificial, and the damage causes actual danger of inundation ; or

(c.) any bridge (whether over any stream of water or not) or any viaduct, or aqueduct, over or under which bridge, viaduct or aqueduct any highway, railway or canal passes, and the damage is done with intent and so as to render  
such



such bridge, viaduct or aqueduct, or the highway, railway or canal passing over or under the same, or any part thereof, dangerous or impassable ; or

(*d.*) a railway damaged with the intent of rendering and so as to render such railway dangerous or impassable. R.S.C., c. 168, ss. 13, 32 and 49 ; c. 32, s. 213.

(*B.*) To fourteen years' imprisonment if the object damaged be—

(*a.*) a ship in distress or wrecked, or any goods, merchandise or articles belonging thereto ; or

(*b.*) any cattle or the young thereof, and the damage be caused by killing, maiming, poisoning or wounding.

(*C.*) To seven years' imprisonment if the object damaged be—

(*a.*) a ship damaged with intent to destroy or render useless such ship ; or

(*b.*) a signal or mark used for purposes of navigation ; or

(*c.*) a bank, dyke or wall of the sea or of any inland water or canal, or any materials fixed in the ground for securing the same, or any work belonging to any port, harbour, dock, or inland water or canal ; or

(*d.*) a navigable river or canal damaged by interference with the flood gates or sluices thereof or otherwise, with intent and so as to obstruct the navigation thereof ; or

(*e.*) the flood gate or sluice of any private water with intent to take or destroy, or so as to cause the loss or destruction of, the fish therein ; or

(*f.*) a private fishery or salmon river damaged by lime or other noxious material put into the water with intent to destroy fish then being or to be put therein ; or

(*g.*) the flood gate of any mill-pond, reservoir or pool cut through or destroyed ; or

(*h.*) goods in process of manufacture damaged with intent to render them useless ; or

(*i.*) agricultural or manufacturing machines, or manufacturing implements, damaged with intent to render them useless ; or

(*j.*) a hop bind growing in a plantation of hops, or a grape vine growing in a vineyard. R.S.C., c. 168, ss. 16, 17, 21, 33, 34, 50 and 52.

(*D.*) To five years' imprisonment if the object damaged be—

(*a.*) a tree, shrub or underwood growing in a park, pleasure ground or garden, or in any land adjoining or belonging to a dwelling-house, injured to an extent exceeding in value five dollars ; or

(*b.*) a post letter bag or post letter ; or

(*c.*) any street letter box, pillar box or other receptacle established by authority of the Postmaster-General for the deposit of letters or other mailable matter ; or

(*d.*) any parcel sent by parcel post, any packet or package of patterns or samples of merchandise or goods, or of seeds,

cuttings, bulbs, roots, scions or grafts, or any printed vote or proceeding, newspaper, printed paper or book or other mailable matter, not being a post letter, sent by mail; or

(e.) any property, real or personal, corporeal or incorporeal, for damage to which no special punishment is by law prescribed, damaged by night to the value of twenty dollars. R.S.C., c. 168, ss. 22, 23, 38 and 58; c. 35, ss. 79, 91, 96 and 107; 53 V., c. 37, s. 17.

(E.) To two years' imprisonment if the object damaged be—

(a.) any property, real or personal, corporeal or incorporeal, for damage to which no special punishment is by law prescribed, damaged to the value of twenty dollars. R.S.C., c. 168, ss. 36, 42 and 58; 53 V., c. 37, s. 17.

Attempting to injure or poison cattle.

**500.** Every one is guilty of an indictable offence and liable to two years' imprisonment who wilfully—

(a.) attempts to kill, maim, wound, poison or injure any cattle, or the young thereof; or

(b.) places poison in such a position as to be easily partaken of by any such animal. R.S.C., c. 168, s. 44.

Injuries to other animals.

**501.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding one hundred dollars over and above the amount of injury done, or to three months' imprisonment with or without hard labour, who wilfully kills, maims, wounds, poisons or injures any dog, bird, beast, or other animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or kept for any lawful purpose.

2. Every one who, having been convicted of any such offence, afterwards commits any offence under this section, is guilty of an indictable offence, and liable to a fine or imprisonment, or both, in the discretion of the court. R.S.C., c. 168, s. 45; 53 V., c. 37, s. 16.

Threats to injure cattle.

**502.** Every one is guilty of an indictable offence and liable to two years' imprisonment who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to kill, maim, wound, poison, or injure any cattle. R.S.C., c. 173, s. 8.

Injuries to poll-books, &c.

**503.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who wilfully—

(a.) destroys, injures or obliterates, or causes to be destroyed, injured or obliterated; or

(b.) makes or causes to be made any erasure, addition of names or interlineation of names in or upon—

any writ of election, or any return to a writ of election, or any indenture, poll-book, voters' list, certificate, affidavit or report,

report, or any document, ballot or paper made, prepared or drawn out according to any law in regard to Dominion, provincial, municipal or civic elections. R.S.C., c. 168, s. 55.

**504.** Every one is guilty of an indictable offence and liable to five years' imprisonment who, being possessed of any dwelling-house or other building, or part of any dwelling-house or other building which is built on lands subject to a mortgage or which is held for any term of years or other less term, or at will, or held over after the termination of any tenancy, wilfully and to the prejudice of the mortgagee or owner—

*Injuries to buildings by tenants.*

(a.) pulls down or demolishes, or begins to pull down or demolish the same or any part thereof, or removes or begins to remove the same or any part thereof from the premises on which it is erected; or

(b.) pulls down or severs from the freehold any fixture fixed in or to such dwelling-house or building, or part of such dwelling-house or building.

**505.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who wilfully pulls down, defaces, alters or removes any mound, land mark, post or monument lawfully erected, planted or placed to mark or determine the boundaries of any province, county, city, town, township, parish or other municipal division. R.S.C., c. 168, s. 56.

*Injuries to land marks including municipal divisions.*

**506.** Every one is guilty of an indictable offence and liable to five years' imprisonment, who wilfully defaces, alters or removes any mound, land mark, post or monument lawfully placed by any land surveyor to mark any limit, boundary or angle of any concession, range, lot or parcel of land.

*Injuries to other land marks.*

2. It is not an offence for any land surveyor in his operations to take up such posts or other boundary marks when necessary, if he carefully replaces them as they were before. R.S.C., c. 168, s. 57.

**507.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the amount of the injury done, who wilfully destroys or damages any fence, or any wall, stile or gate, or any part thereof respectively, or any post or stake planted or set up on any land, marsh, swamp or land covered by water, on or as the boundary or part of the boundary line thereof, or in lieu of a fence thereto.

*Injuries to fences, &c.*

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable, on summary conviction, to three months' imprisonment with hard labour. R.S.C., c. 168, s. 27; 53 V., c. 38, s. 15.

Injuries to  
trees, &c.,  
wheresoever  
growing.

**508.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty-five dollars over and above the amount of the injury done, or to two months' imprisonment with or without hard labour, who wilfully destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood, wheresoever the same is growing, the injury done being to the amount of twenty-five cents, at the least.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable, on summary conviction, to a penalty not exceeding fifty dollars over and above the amount of the injury done, or to four months' imprisonment with hard labour.

3. Every one who, having been twice convicted of any such offence, afterwards commits any such offence, is guilty of an indictable offence and liable to two years' imprisonment. R.S.C., c. 168, s. 24.

Injuries to  
vegetable  
productions  
growing in  
gardens, &c.

**509.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the amount of the injury done, or to three months' imprisonment with or without hard labour, who wilfully destroys, or damages with intent to destroy, any vegetable production growing in any garden, orchard, nursery ground, house, hot-house, green-house or conservatory.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is guilty of an indictable offence, and liable to two years' imprisonment. R.S.C., c. 168, s. 25.

Injuries to  
cultivated  
roots and  
plants grow-  
ing elsewhere.

**510.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding five dollars over and above the amount of the injury done, or to one month's imprisonment with or without hard labour, who wilfully destroys, or damages with intent to destroy, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard or nursery ground.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable, on summary conviction, to three months' imprisonment with hard labour. R.S.C., c. 168, s. 26.

Injuries not  
otherwise  
provided for.

**511.** Every one who wilfully commits any damage, injury or spoil to or upon any real or personal property either corporeal or incorporeal, and either of a public or private nature, for which no punishment is hereinbefore provided, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars, and such further sum, not exceeding twenty dollars, as appears to the justice to be a reasonable



reasonable compensation for the damage, injury or spoil so committed,—which last mentioned sum of money shall, in the case of private property, be paid to the person aggrieved; and if such sums of money, together with the costs, if ordered, are not paid, either immediately after the conviction, or within such period as the justice, at the time of the conviction appoints, the justice may cause the offender to be imprisoned for any term not exceeding two months, with or without hard labour.

2. Nothing herein extends to—

(a.) any case where the person acted under a fair and reasonable supposition that he had a right to do the act complained of; or

(b.) any trespass, not being wilful and malicious, committed in hunting or fishing, or in the pursuit of game. R.S.C., c. 168, s. 59; 53 V., c. 37, s. 18.

#### PART XXXVIII.

#### CRUELTY TO ANIMALS.

**512.** Every one is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty not exceeding fifty dollars, or to three months' imprisonment with or without hard labour, or to both, who— Cruelty to animals.

(a.) wantonly, cruelly or unnecessarily beats, binds, ill-treats, abuses, overdrives or tortures any cattle, poultry, dog, domestic animal or bird; or

(b.) while driving any cattle or other animal is, by negligence or ill-usage in the driving thereof, the means whereby any mischief, damage or injury is done by any such cattle or other animal; or

(c.) in any manner encourages, aids or assists at the fighting or baiting of any bull, bear, badger, dog, cock, or other kind of animal, whether of domestic or wild nature. R.S.C., c. 172, s. 2.

**513.** Every one is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty not exceeding fifty dollars, or to three months' imprisonment, with or without hard labour, or to both, who builds, makes, maintains or keeps a cock-pit on premises belonging to or occupied by him, or allows a cock-pit to be built, made, maintained or kept on premises belonging to or occupied by him. Keeping cock-pit.

2. All cocks found in any such cock-pit, or on the premises wherein such cock-pit is, shall be confiscated and sold for the benefit of the municipality in which such cock-pit is situated. R.S.C., c. 172, s. 3.

The conveyance of cattle.

**514.** No railway company within Canada whose railway forms any part of a line of road over which cattle are conveyed from one province to another province, or from the United States to or through any province, or from any part of a province to another part of the same, and no owner or master of any vessel carrying or transporting cattle from one province to another province, or within any province, or from the United States through or to any province, shall confine the same in any car, or vessel of any description, for a longer period than twenty-eight hours without unloading the same for rest, water and feeding for a period of at least five consecutive hours, unless prevented from so unloading and furnishing water and food by storm or other unavoidable cause, or by necessary delay or detention in the crossing of trains.

2. In reckoning the period of confinement, the time during which the cattle have been confined without such rest, and without the furnishing of food and water, on any connecting railways or vessels from which they are received, whether in the United States or in Canada, shall be included.

3. The foregoing provisions as to cattle being unladen shall not apply when cattle are carried in any car or vessel in which they have proper space and opportunity for rest, and proper food and water.

4. Cattle so unloaded shall be properly fed and watered during such rest by the owner or person having the custody thereof or, in case of his default in so doing, by the railway company, or owner or master of the vessel transporting the same, at the expense of the owner or person in custody thereof; and such company, owner or master shall in such case have a lien upon such cattle for food, care and custody furnished and shall not be liable for any detention of such cattle.

5. Where cattle are unladen from cars for the purpose of receiving food, water and rest the railway company then having charge of the cars in which they have been transported shall, except during a period of frost, clear the floors of such cars, and litter the same properly with clean sawdust or sand before reloading them with live stock.

6. Every railway company, or owner or master of a vessel, having cattle in transit, or the owner or person having the custody of such cattle, as aforesaid, who knowingly and wilfully fails to comply with the foregoing provisions of this section, is liable for every such failure on summary conviction to a penalty not exceeding one hundred dollars. R.S.C., c. 172, ss. 8, 9, 10 and 11.

Search of premises; penalty for refusing admission to peace officer.

**515.** Any peace officer or constable may, at all times, enter any premises where he has reasonable grounds for supposing that any car, truck or vehicle, in respect whereof any company or person has failed to comply with the provisions of the next preceding section, is to be found, or enter

enter on board any vessel in respect whereof he has reasonable grounds for supposing that any company or person has, on any occasion, so failed.

2. Every one who refuses admission to such peace officer or constable is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars and not less than five dollars, and costs, and in default of payment, to thirty days' imprisonment. R.S.C., c. 171, s. 12.

#### PART XXXIX.

#### OFFENCES CONNECTED WITH TRADE AND BREACHES OF CONTRACT.

**516.** A conspiracy in restraint of trade is an agreement between two or more persons to do or procure to be done any unlawful act in restraint of trade. Conspiracies in restraint of trade.

**517.** The purposes of a trade union are not, by reason merely that they are in restraint of trade, unlawful within the meaning of the next preceding section. R.S.C., c. 131, s. 22. What acts done in restraint of trade are not unlawful.

**518.** No prosecution shall be maintainable against any person for conspiracy in refusing to work with or for any employer or workman, or for doing any act or causing any act to be done for the purpose of a trade combination, unless such act is an offence punishable by statute. 53 V., c. 37, s. 19. Prosecution for conspiracy.

**519.** The expression "trade combination," means any combination between masters or workmen or other persons for regulating or altering the relations between any persons being masters or workmen, or the conduct of any master or workman in or in respect of his business or employment, or contract of employment or service; and the expression "act" includes a default, breach or omission. R.S.C., c. 173, s. 13. Interpretation.

**520.** Every one is guilty of an indictable offence and liable to a penalty not exceeding four thousand dollars and not less than two hundred dollars, or to two years' imprisonment, and if a corporation is liable to a penalty not exceeding ten thousand dollars and not less than one thousand dollars, who conspires, combines, agrees or arranges with any other person, or with any railway, steamship, steamboat or transportation company, unlawfully—

(a.) to unduly limit the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any article or commodity which may be a subject of trade or commerce; or

(b)

(b.) to restrain or injure trade or commerce in relation to any such article or commodity; or

(c.) to unduly prevent, limit, or lessen the manufacture or production of any such article or commodity, or to unreasonably enhance the price thereof; or

(d.) to unduly prevent or lessen competition in the production, manufacture, purchase, barter, sale, transportation or supply of any such article or commodity, or in the price of insurance upon person or property. 52 V., c. 41, s. 1.

Criminal  
breaches of  
contract.

**521.** Every one is guilty of an indictable offence and liable on indictment or on summary conviction before two justices of the peace, to a penalty not exceeding one hundred dollars or to three months' imprisonment, with or without hard labour, who —

(a.) wilfully breaks any contract made by him knowing, or having reasonable cause to believe, that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life, or to cause serious bodily injury, or to expose valuable property, whether real or personal, to destruction or serious injury; or

(b.) being, under any contract made by him with any municipal corporation or authority, or with any company, bound, agreeing or assuming to supply any city or any other place, or any part thereof, with electric light or power, gas or water, wilfully breaks such contract knowing, or having reasonable cause to believe, that the probable consequences of his so doing, either alone or in combination with others, will be to deprive the inhabitants of that city or place, or part thereof, wholly or to a great extent, of their supply of power, light, gas or water; or

(c.) being under any contract made by him with a railway company, bound, agreeing or assuming to carry Her Majesty's mails, or to carry passengers or freight, or with Her Majesty, or any one on behalf of Her Majesty, in connection with a Government railway on which Her Majesty's mails, or passengers or freight are carried, wilfully breaks such contract knowing, or having reason to believe that the probable consequences of his so doing, either alone or in combination with others, will be to delay or prevent the running of any locomotive engine, or tender, or freight or passenger train or car, on the railway.

2. Every municipal corporation or authority or company which, being bound, agreeing or assuming to supply any city, or any other place, or any part thereof, with electric light or power, gas or water, wilfully breaks any contract made by such municipal corporation, authority, or company, knowing or having reason to believe that the probable consequences of its so doing will be to deprive the inhabitants of that city or place or part thereof wholly, or to a great extent, of their supply of electric light or power, gas or water, is liable to a penalty not exceeding one thousand dollars.



3 Every railway company which, being bound, agreeing or assuming to carry Her Majesty's mails, or to carry passengers or freight, wilfully breaks any contract made by such railway company, knowing or having reason to believe that the probable consequences of its so doing will be to delay or prevent the running of any locomotive engine or tender, or freight or passenger train or car on the railway is liable to a penalty not exceeding one hundred dollars

4. It is not material whether any offence defined in this section is committed from malice conceived against the person, corporation, authority or company with which the contract is made or otherwise. R.S.C., c. 173, ss. 15 and 17.

**522.** Every such municipal corporation, authority, or company, shall cause to be posted up at the electrical works, gas works, or water-works, or railway stations, as the case may be, belonging to such corporation, authority or company, a printed copy of this and the preceding section in some conspicuous place, where the same may be conveniently read by the public; and as often as such copy becomes defaced, obliterated or destroyed shall cause it to be renewed with all reasonable despatch.

Posting up copies of provisions respecting criminal breaches of contract; defacing same.

2. Every such municipal corporation, authority or company which makes default in complying with such duty is liable to a penalty not exceeding twenty dollars for every day during which such default continues.

3 Every person unlawfully injuring, defacing or covering up any such copy so posted up is liable, on summary conviction, to a penalty not exceeding ten dollars. R.S.C., c. 173, s. 19.

**523.** Every one is guilty of an indictable offence and liable, on indictment or on summary conviction before two justices of the peace, to a fine not exceeding one hundred dollars or to three months' imprisonment with or without hard labour who, wrongfully and without lawful authority, with a view to compel any other person to abstain from doing anything which he has a lawful right to do, or to do anything from which he has a lawful right to abstain—

Intimidation.

(a.) uses violence to such other person, or his wife or children, or injures his property; or

(b.) intimidates such other person, or his wife or children, by threats of using violence to him, her or any of them, or of injuring his property; or

(c.) persistently follows such other person about from place to place; or

(d.) hides any tools, clothes or other property owned or used by such other person, or deprives him of, or hinders him in, the use thereof; or

(e.) with one or more other persons, follows such other person, in a disorderly manner, in or through any street or road; or

(*f.*) besets or watches the house or other place where such other person resides or works, or carries on business or happens to be. R.S.C., c. 173, s. 12.

Intimidation  
of any person  
to prevent  
him from  
working at  
any trade.

**524.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or of any unlawful combination or conspiracy respecting any trade, business or manufacture, or respecting any person concerned or employed therein, unlawfully assaults any person, or, in pursuance of any such combination or conspiracy, uses any violence or threat of violence to any person, with a view to hinder him from working or being employed at such trade, business or manufacture. R.S.C., c. 173, s. 9.

Intimidation  
of any person  
to prevent  
him dealing in  
wheat, &c.;  
unlawfully  
preventing  
seamen from  
working.

**525.** Every one is guilty of an indictable offence and liable, on indictment or on summary conviction before two justices of the peace, to a fine not exceeding one hundred dollars, or to three months' imprisonment with or without hard labour, who—

(*a.*) beats or uses any violence or threat of violence to any person with intent to deter or hinder him from buying, selling or otherwise disposing of any wheat or other grain, flour, meal, malt or potatoes or other produce or goods, in any market or other place; or

(*b.*) beats or uses any such violence or threat to any person having the charge or care of any wheat or other grain, flour, meal, malt or potatoes, while on the way to or from any city, market, town or other place with intent to stop the conveyance of the same; or

(*c.*) by force or threats of violence, or by any form of intimidation whatsoever, hinders or prevents or attempts to hinder or prevent any seaman, stevedore, ship carpenter, ship labourer or other person employed to work at or on board any ship or vessel, or to do any work connected with the loading or unloading thereof, from working at or exercising any lawful trade, business, calling or occupation in or for which he is so employed; or with intent so to hinder or prevent, besets or watches such ship, vessel or employee; or

(*d.*) beats or uses any violence to, or makes any threat of violence against, any such person with intent to hinder or prevent him from working at or exercising the same, or on account of his having worked at or exercised the same. R.S.C., c. 173, s. 10; 50-51 V., c. 49.

Intimidation  
of any person  
to prevent  
him bidding  
for public  
lands.

**526.** Every person is guilty of an indictable offence and liable to a fine not exceeding four hundred dollars, or to two years' imprisonment, or to both, who, before or at the time of the public sale of any Indian lands, or public lands of Canada, or of any province of Canada, by intimidation, or illegal combination, hinders or prevents, or attempts to hinder or prevent, any person from bidding upon or purchasing any lands so offered for sale. R.S.C., c. 173, s. 14.

## PART XL.

## ATTEMPTS—CONSPIRACIES—ACCESSORIES.

**527.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, in any case not hereinbefore provided for, conspires with any person to commit any indictable offence.

**528.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who attempts, in any case not hereinbefore provided for, to commit any indictable offence for which the punishment is imprisonment for life, or for fourteen years, or for any term longer than fourteen years.

**529.** Every one who attempts to commit any indictable offence for committing which the longest term to which the offender can be sentenced is less than fourteen years, and no express provision is made by law for the punishment of such attempt, is guilty of an indictable offence and liable to imprisonment for a term equal to one-half of the longest term to which a person committing the indictable offence attempted to be committed may be sentenced.

**530.** Every one is guilty of an indictable offence and liable to one year's imprisonment who attempts to commit any offence under any statute for the time being in force and not inconsistent with this Act, or incites or attempts to incite any person to commit any such offence, and for the punishment of which no express provision is made by such statute.

**531.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, in any case where no express provision is made by this Act for the punishment of an accessory, is accessory after the fact to any indictable offence for which the punishment is, on a first conviction, imprisonment for life, or for fourteen years, or for any term longer than fourteen years.

**532.** Every one who is accessory after the fact to any indictable offence for committing which the longest term to which the offender can be sentenced is less than fourteen years, and no express provision is made for the punishment of such accessory, is guilty of an indictable offence and liable to imprisonment for a term equal to one-half of the longest term to which a person committing the indictable offence to which he is accessory may be sentenced.

## TITLE VII.

## PROCEDURE.

## PART XLI.

## GENERAL PROVISIONS.

Power to  
make rules.

**533.** Every superior court of criminal jurisdiction may at any time, with the concurrence of a majority of the judges thereof present at any meeting held for the purpose, make rules of court, not inconsistent with any statute of Canada, which shall apply to all proceedings relating to any prosecution, proceeding or action instituted in relation to any matter of a criminal nature, or resulting from or incidental to any such matter, and in particular for all or any of the purposes following:—

(a.) For regulating the sittings of the court or of any division thereof, or of any judge of the court sitting in chambers, except in so far as the same are already regulated by law.

(b.) For regulating in criminal matters the pleading, practice and procedure in the court, including the subjects of *mandamus*, *certiorari*, *habeas corpus*, prohibition, *quo warranto*, bail and costs, and the proceedings under section nine hundred of this Act.

(c.) Generally for regulating the duties of the officers of the court and every other matter deemed expedient for better attaining the ends of justice and carrying the provisions of the law into effect.

2. Copies of all rules made under the authority of this section shall be laid before both Houses of Parliament at the session next after the making thereof, and shall also be published in the *Canada Gazette*. 52 V., c. 40.

Civil remedy  
not suspended  
though act is  
a criminal  
offence.

**534.** After the commencement of this Act no civil remedy for any act or omission shall be suspended or affected by reason that such act or omission amounts to a criminal offence.

Abolition of  
distinction  
between  
felony and  
misdemeanour.

**535.** After the commencement of this Act the distinction between felony and misdemeanour shall be abolished, and proceedings in respect of all indictable offences (except so far as they are herein varied) shall be conducted in the same manner.

Construction  
of Acts.

**536.** Every Act shall be hereafter read and construed as if any offence for which the offender may be prosecuted by indictment (howsoever such offence may be therein described or referred to), were described or referred to as an "indictable offence";



offence"; and as if any offence punishable on summary conviction were described or referred to as an "offence"; and all provisions of this Act relating to "indictable offences" or "offences" (as the case may be) shall apply to every such offence.

2. Every commission, proclamation, warrant or other document relating to criminal procedure, in which offences which are indictable offences or offences (as the case may be) as defined by this Act are described or referred to by any names whatsoever, shall be hereafter read and construed as if such offences were therein described and referred to as indictable offences or offences (as the case may be).

**537.** In any Act in which reference is made to *The Speedy Trials Act* the same shall be construed, unless the context requires otherwise, as if such reference were to Part LIV. of this Act; any Act referring to *The Summary Trials Act* shall be construed, unless the context forbids it, as if such reference were to Part LV. of this Act; and every Act referring to *The Summary Convictions Act* shall be construed, unless the context forbids it, as if such reference were to Part LVIII. of this Act.

Construction of reference to certain Acts.

#### PART XLII.

#### JURISDICTION.

**538.** Every Superior Court of criminal jurisdiction and every judge of such court sitting as a court for the trial of criminal causes, and every Court of Oyer and Terminer and General Gaol Delivery has power to try any indictable offence.

Superior court.

**539.** Every Court of General Quarter Sessions of the Peace, when presided over by a Superior Court judge, or a County or District Court judge, or in the cities of Montreal and Quebec by a recorder or judge of the Sessions of the Peace; and in the province of New Brunswick every County Court judge has power to try any indictable offence except as hereinafter provided.

Other courts.

**540.** No such court as mentioned in the next preceding section has power to try any offence under the following sections, that is to say:

Jurisdiction in certain cases.

Part IV.—Sections sixty-five, treason; sixty-seven, accessories after the fact to treason; sixty-eight, sixty-nine and seventy, treasonable offences; seventy-one, assault on the Queen; seventy-two, inciting to mutiny; seventy-seven, unlawfully obtaining and communicating official information: seventy-eight, communicating information acquired by holding office.

Part VII.—Sections one hundred and twenty, administering, taking or procuring the taking of oaths to commit certain crimes ; one hundred and twenty-one, administering, taking or procuring the taking of other unlawful oaths ; one hundred and twenty-four, seditious offences ; one hundred and twenty-five, libels on foreign sovereigns ; one hundred and twenty-six, spreading false news.

Part VIII.—Piracy ; any of the sections in this part.

Part IX.—Sections one hundred and thirty-one, judicial corruption ; one hundred and thirty-two, corruption of officers employed in prosecuting offenders ; one hundred and thirty-three, frauds upon the Government ; one hundred and thirty-five, breach of trust by a public officer ; one hundred and thirty-six, corrupt practices in municipal affairs ; one hundred and thirty-seven (*a.*), selling and purchasing offices.

Part XI.—Escapes and rescues ; any of the sections in this part.

Part XVIII.—Sections two hundred and thirty-one, murder ; two hundred and thirty-two, attempts to murder ; two hundred and thirty-three, threats to murder ; two hundred and thirty-four, conspiracy to murder ; two hundred and thirty-five, accessory after the fact to murder.

Part XXI.—Sections two hundred and sixty-seven, rape ; two hundred and sixty-eight, attempt to commit rape.

Part XXIII.—Defamatory libel ; any of the sections in this part.

Part XXXIX.—Section five hundred and twenty, combinations in restraint of trade.

Part XL.—Conspiring or attempting to commit, or being accessory after the fact to any of the foregoing offences.

Exercising  
powers of two  
justices.

**541.** The judge of the Sessions of the Peace for the city of Quebec, the judge of the Sessions of the Peace for the city of Montreal, and every recorder, police magistrate, district magistrate or stipendiary magistrate appointed for any territorial division, and every magistrate authorized by the law of the province in which he acts to perform acts usually required to be done by two or more justices of the peace, may do alone whatever is authorized by this Act to be done by any two or more justices of the peace, and the several forms in this Act contained may be varied so far as necessary to render them applicable to such case. R.S.C., c. 174, s. 7.

#### PART XLIII.

#### PROCEDURE IN PARTICULAR CASES.

Offences  
within the ju-  
risdiction of  
the admiralty  
of England.

**542.** Proceedings for the trial and punishment of a person who is not a subject of Her Majesty, and who is charged with any offence committed within the jurisdiction of the Admiralty

Admiralty of England shall not be instituted in any court in Canada except with the leave of the Governor General and on his certificate that it is expedient that such proceedings should be instituted.

**513.** No person shall be prosecuted for the offence of unlawfully obtaining and communicating official information, as defined in sections seventy-seven and seventy-eight, without the consent of the Attorney-General or of the Attorney-General of Canada. 53 V., c. 10, s. 4. Disclosing official secrets.

**514.** No one holding any judicial office shall be prosecuted for the offence of judicial corruption, as defined in section one hundred and thirty-one, without the leave of the Attorney-General of Canada. Judicial corruption.

**515.** If any person is charged before a justice of the peace with the offence of making or having explosive substances, as defined in section one hundred, no further proceeding shall be taken against such person without the consent of the Attorney-General except such as the justice of the peace thinks necessary, by remand or otherwise, to secure the safe custody of such person. R.S.C., c. 150, s. 5. Making explosive substances.

**516.** No person shall be prosecuted for the offence of sending an unseaworthy ship to sea, as defined in section two hundred and fifty-six, without the consent of the Minister of Marine and Fisheries. Sending unseaworthy ships to sea.

**517.** No proceeding or prosecution against a trustee for a criminal breach of trust, as defined in section three hundred and sixty-three, shall be commenced without the sanction of the Attorney-General. R.S.C., c. 164, s. 65. Trustee fraudulently disposing of money.

**518.** No prosecution for concealing deeds and encumbrances, as defined in section three hundred and seventy, shall be commenced without the consent of the Attorney-General, given after previous notice to the person intended to be prosecuted of the application to the Attorney-General for leave to prosecute. R.S.C., c. 164, s. 91. Fraudulent acts of vendor or mortgagor.

**519.** No proceeding or prosecution for the offence of uttering defaced coin, as defined in section four hundred and seventy-six, shall be taken without the consent of the Attorney-General. Uttering defaced coin.

**550.** The trials of all persons apparently under the age of sixteen years shall, so far as it appears expedient and practicable, take place without publicity, and separately and apart from that of other accused persons and at suitable times to be designated and appointed for that purpose. Trial of minors.

Time within which proceedings shall be commenced in certain cases.

**551.** No prosecution for an offence against this Act, or action for penalties or forfeiture, shall be commenced—

(a.) after the expiration of three years from the time of its commission if such offence be—

(i.) treason, except treason by killing Her Majesty or where the overt act alleged is an attempt to injure the person of Her Majesty (Part IV., section sixty-five);

(ii.) treasonable offences (Part IV., section sixty-nine);

(iii.) any offence against Part XXXIII., relating to the fraudulent marking of merchandise; nor

(b.) after the expiration of two years from its commission if such offence be—

(i.) a fraud upon the Government (Part IX., section, one hundred and thirty-three);

(ii.) a corrupt practice in municipal affairs (Part IX., section one hundred and thirty-six);

(iii.) unlawfully solemnizing marriage (Part XXII., section two hundred and seventy-nine); nor

(c.) after the expiration of one year from its commission if such offence be—

(i.) opposing reading of Riot Act and assembling after proclamation (Part V., section eighty-three);

(ii.) refusing to deliver weapon to justice (Part VI., section one hundred and thirteen);

(iii.) coming armed near public meeting (section one hundred and fourteen);

(iv.) lying in wait near public meeting (section one hundred and fifteen);

(v.) seduction of girl under sixteen (Part XIII., section one hundred and eighty-one);

(vi.) seduction under promise of marriage (section one hundred and eighty-two);

(vii.) seduction of a ward, &c. (section one hundred and eighty-three);

(viii.) unlawfully defiling women (section one hundred and eighty-five);

(ix.) parent or guardian procuring defilement of girl (section one hundred and eighty-six);

(x.) householders permitting defilement of girls on their premises (section one hundred and eighty-seven); nor

(d.) after the expiration of six months from its commission, if the offence be—

(i.) unlawful drilling (Part V., section eighty-seven);

(ii.) being unlawfully drilled (section eighty-eight);

(iii.) having possession of arms for purposes dangerous to the public peace (Part VI., section one hundred and two);

(iv.) proprietor of newspaper publishing advertisement offering reward for recovery of stolen property (Part X., section one hundred and fifty-seven, paragraph d); nor

(e.) after the expiration of three months from its commission if the offence be cruelty to animals under sections five hundred



hundred and twelve and five hundred and thirteen, Part XXXVIII; nor

(ii.) railways violating provisions relating to conveyance of cattle (Part XXXIX., section five hundred and fourteen);

(iii.) refusing peace officer admission to car, &c. (section five hundred and fifteen);

(f.) after the expiration of one month from its commission, if the offence be

(i) improper use of offensive weapons (Part VI., sections one hundred and three, and one hundred and five to one hundred and eleven inclusive).

2. No person shall be prosecuted, under the provisions of section sixty-five or section sixty-nine of this Act, for any overt act of treason expressed or declared by open and advised speaking unless information of such overt act, and of the words by which the same was expressed or declared, is given upon oath to a justice within six days after the words are spoken and a warrant for the apprehension of the offender is issued within ten days after such information is given.

**552.** Any one found committing any of the offences mentioned in the following sections, may be arrested without warrant by any one, that is to say : Arrest  
without war-  
rant.

Part IV.—Sections sixty-five, treason; sixty-seven, accessories after the fact to treason; sixty-eight, sixty-nine and seventy, treasonable offences; seventy-one, assaults on the Queen; seventy-two, inciting to mutiny.

Part V.—Sections eighty-three, offences respecting the reading of the Riot Act; eighty-five, riotous destruction of buildings; eighty-six, riotous damage to buildings.

Part VII.—Sections one hundred and twenty, administering, taking or procuring the taking of oaths to commit certain crimes; one hundred and twenty-one, administering, taking or procuring the taking of other unlawful oaths.

Part VIII.—Sections one hundred and twenty-seven, piracy; one hundred and twenty-eight, piratical acts; one hundred and twenty-nine, piracy with violence.

Part XI.—Sections one hundred and fifty-nine, being at large while under sentence of imprisonment; one hundred and sixty-one, breaking prison; one hundred and sixty-three, escape from custody or from prison; one hundred and sixty-four, escape from lawful custody.

Part XIII.—Section one hundred and seventy-four, unnatural offence.

Part XVIII.—Sections two hundred and thirty-one, murder; two hundred and thirty-two, attempt to murder; two hundred and thirty-five, being accessory after the fact to murder; two hundred and thirty-six, manslaughter; two hundred and thirty-eight, attempt to commit suicide.

Part XIX.—Sections two hundred and forty-one, wounding with intent to do bodily harm; two hundred and forty-

two, wounding; two hundred and forty-four, stupefying in order to commit an indictable offence; two hundred and forty-seven and two hundred and forty-eight, injuring or attempting to injure by explosive substances; two hundred and fifty, intentionally endangering persons on railways; two hundred and fifty-one, wantonly endangering persons on railways; two hundred and fifty-four, preventing escape from wreck.

Part XXI.—Sections two hundred and sixty-seven, rape; two hundred and sixty-eight, attempt to commit rape; two hundred and sixty-nine, defiling children under fourteen.

Part XXII.—Section two hundred and eighty-one, abduction of a woman.

Part XXV.—Section three hundred and fourteen, receiving property dishonestly obtained.

Part XXVI.—Sections three hundred and twenty, theft by agent, &c.; three hundred and fifty-five, bringing into Canada things stolen.

Part XXIX.—Sections three hundred and ninety-eight, aggravated robbery; three hundred and ninety-nine, robbery; four hundred, assault with intent to rob; four hundred and one, stopping the mail; four hundred and two, compelling execution of documents by force; four hundred and three, sending letter demanding with menaces; four hundred and four, demanding with intent to steal; four hundred and five, extortion by certain threats.

Part XXX.—Sections four hundred and eight, breaking place of worship and committing an indictable offence; four hundred and nine, breaking place of worship with intent to commit an indictable offence; four hundred and ten, burglary; four hundred and eleven, housebreaking and committing an indictable offence; four hundred and twelve, housebreaking with intent to commit an indictable offence; four hundred and thirteen, breaking shop and committing an indictable offence; four hundred and fourteen, breaking shop with intent to commit an indictable offence; four hundred and fifteen, being found in a dwelling-house by night; four hundred and sixteen, being armed, with intent to break a dwelling-house; four hundred and seventeen, being disguised or in possession of housebreaking instruments.

Part XXXI.—Sections four hundred and twenty-three, forgery; four hundred and twenty-four, uttering forged documents; four hundred and twenty-five, counterfeiting seals; four hundred and thirty, possessing forged bank notes; four hundred and thirty-two, using probate obtained by forgery or perjury.

Part XXXII.—Sections four hundred and thirty-four, making, having or using instrument for forgery or uttering forged bond or undertaking; four hundred and thirty-five, counterfeiting stamps; four hundred and thirty-six, falsifying registers.

Part XXXIV.—Section four hundred and fifty-eight, personation of certain persons.

Part XXXV.—Sections four hundred and sixty-two, counterfeiting gold and silver coin; four hundred and sixty-six, making instruments for coining; four hundred and sixty-eight, clipping current coin; four hundred and seventy, possessing clipping of current coin; four hundred and seventy-two, counterfeiting copper coin; four hundred and seventy-three, counterfeiting foreign gold and silver coin; four hundred and seventy-seven, uttering counterfeit current coin.

Part XXXVII.—Sections four hundred and eighty-two, arson; four hundred and eighty-three, attempt to commit arson; four hundred and eighty-four, setting fire to crops; four hundred and eighty-five, attempting to set fire to crops; four hundred and eighty-eight, attempt to damage by explosives; four hundred and eighty-nine, mischief on railways; four hundred and ninety-two, injuries to electric telegraphs, &c.; four hundred and ninety-three, wrecking; four hundred and ninety-four, attempting to wreck; four hundred and ninety-five, interfering with marine signals; four hundred and ninety-eight, mischief to mines; four hundred and ninety-nine, mischief.

2. Any one found committing any of the offences mentioned in the following sections, may be arrested without warrant by a peace officer:

Part XXVII.—Sections three hundred and fifty-nine, obtaining by false pretense; three hundred and sixty, obtaining execution of valuable securities by false pretense.

Part XXXV.—Sections four hundred and sixty-five, exporting counterfeit coin; four hundred and seventy-one, possessing counterfeit current coin; four hundred and seventy-three, paragraph (b), possessing counterfeit foreign gold or silver coin; four hundred and seventy-three, paragraph (d), counterfeiting foreign copper coin.

Part XXXVII.—Sections four hundred and ninety-seven, cutting booms, or breaking loose rafts or cribs of timber or saw-logs; five hundred, attempting to injure or poison cattle.

Part XXXVIII.—Sections five hundred and twelve, cruelty to animals; five hundred and thirteen, keeping cock-pit.

3. A peace officer may arrest, without warrant, any one whom he finds committing any offence against this Act, and any person may arrest, without warrant, any one whom he finds by night committing any offence against this Act.

4. Any one may arrest without warrant a person whom he, on reasonable and probable grounds, believes to have committed an offence and to be escaping from, and to be freshly pursued by, those whom the person arresting, on reasonable and probable grounds, believes to have lawful authority to arrest such person.

5. The owner of any property on or in respect to which any person is found committing an offence against this Act, or any person authorized by such owner, may arrest without warrant the person so found, who shall forthwith be taken before a justice of the peace to be dealt with according to law.

6. Any officer in Her Majesty's service, any warrant or petty officer in the navy, and any non-commissioned officer of marines may arrest without warrant any person found committing any of the offences mentioned in section one hundred and nineteen of this Act.

7. Any peace officer may, without a warrant, take into custody any person whom he finds lying or loitering in any highway, yard or other place during the night, and whom he has good cause to suspect of having committed, or being about to commit, any indictable offence, and may detain such person until he can be brought before a justice of the peace, to be dealt with according to law ;

(a.) No person who has been so apprehended shall be detained after noon of the following day without being brought before a justice of the peace.

#### PART XLIV.

#### COMPELLING APPEARANCE OF ACCUSED BEFORE JUSTICE.

Magisterial  
jurisdiction.

**553.** For the purposes of this Act, the following provisions shall have effect with respect to the jurisdiction of justices :

(a.) Where the offence is committed in any water, tidal or other, between two or more magisterial jurisdictions, such offence may be considered as having been committed in either of such jurisdictions ;

(b.) Where the offence is committed on the boundary of two or more magisterial jurisdictions, or within the distance of five hundred yards from any such boundary, or is begun within one magisterial jurisdiction and completed within another, such offence may be considered as having been committed in any one of such jurisdictions ;

(c.) Where the offence is committed on or in respect to a mail, or a person conveying a post letter bag, post letter or anything sent by post, or on any person, or in respect of any property, in or upon any vehicle employed in a journey, or on board any vessel employed on any navigable river, canal or other inland navigation, the person accused shall be considered as having committed such offence in any magisterial jurisdiction through which such vehicle or vessel passed in the course of the journey or voyage during which the offence was committed : and where the centre or other part of the road, or any navigable river, canal or other inland navigation



navigation along which the vehicle or vessel passed in the course of such journey or voyage, is the boundary of two or more magisterial jurisdictions, the person accused of having committed the offence may be considered as having committed it in any one of such jurisdictions.

**554.** Every justice may issue a warrant or summons as hereinafter mentioned to compel the attendance of an accused person before him, for the purpose of preliminary inquiry in any of the following cases : When justice may compel appearance.

(a.) If such person is accused of having committed in any place whatever an indictable offence triable in the province in which such justice resides, and is, or is suspected to be, within the limits over which such justice has jurisdiction, or resides or is suspected to reside within such limits ;

(b.) If such person, wherever he may be, is accused of having committed an indictable offence within such limits ;

(c.) If such person is alleged to have anywhere unlawfully received property which was unlawfully obtained within such limits ;

(d.) If such person has in his possession, within such limits, any stolen property.

**555.** All offences committed in any of the unorganized tracts of country in the province of Ontario, including lakes, rivers and other waters therein, not embraced within the limits of any organized county, or within any provisional judicial district, may be laid and charged to have been committed and may be inquired of, tried and punished within any county of such province ; and such offences shall be within the jurisdiction of any court having jurisdiction over offences of the like nature committed within the limits of such county, before which court such offences may be prosecuted ; and such court shall proceed therein to trial, judgment and execution or other punishment for such offence, in the same manner as if such offence had been committed within the county where such trial is had. Offences committed in certain parts of Ontario.

2. When any provisional judicial district or new county is formed and established in any of such unorganized tracts, all offences committed within the limits of such provisional judicial district or new county, shall be inquired of, tried and punished within the same, in like manner as such offences would have been inquired of, tried and punished if this section had not been passed.

3. Any person accused or convicted of any offence in any such provisional district may be committed to any common gaol in the province of Ontario ; and the constable or other officer having charge of such person and intrusted with his conveyance to any such common gaol, may pass through any county in such province with such person in his custody ; and the keeper of the common gaol of any county in such province in which it is found necessary to lodge for safe

safe keeping any such person so being conveyed through such county in custody, shall receive such person and safely keep and detain him in such common gaol for such period as is reasonable or necessary; and the keeper of any common gaol in such province, to which any such person is committed as aforesaid, shall receive such person and safely keep and detain him in such common gaol under his custody until discharged in due course of law, or bailed in cases in which bail may by law be taken. R.S.C., c. 174, s. 14.

Offences committed in the district of Gaspé.

**556.** Whenever any offence is committed in the district of Gaspé, the offender, if committed to gaol before trial, may be committed to the common gaol of the county in which the offence was committed, or may, in law, be deemed to have been committed, and if tried before the Court of Queen's Bench, he shall be so tried at the sitting of such court held in the county to the gaol of which he has been committed, and if imprisoned in the common gaol after trial he shall be so imprisoned in the common gaol of the county in which he has been tried. R.S.C., c. 174, s. 15.

Offence committed out of jurisdiction.

**557.** The preliminary inquiry may be held either by one justice or by more justices than one: Provided that if the accused person is brought before any justice charged with an offence committed out of the limits of the jurisdiction of such justice, such justice may, after hearing both sides, order the accused at any stage of the inquiry to be taken by a constable before some justice having jurisdiction in the place where the offence was committed. The justice so ordering shall give a warrant for that purpose to a constable, which may be in the form A in schedule one hereto, or to the like effect, and shall deliver to such constable the information, depositions and recognizances if any taken under the provisions of this Act, to be delivered to the justice before whom the accused person is to be taken, and such depositions and recognizances shall be treated to all intents as if they had been taken by the last-mentioned justice.

2. Upon the constable delivering to the justice the warrant, information, if any, depositions and recognizances, and proving on oath or affirmation, the handwriting of the justice who has subscribed the same, such justice, before whom the accused is produced, shall thereupon furnish such constable with a receipt or certificate in the form B in schedule one hereto, of his having received from him the body of the accused, together with the warrant, information, if any, depositions and recognizances, and of his having proved to him, upon oath or affirmation, the handwriting of the justice who issued the warrant.

4. If such justice does not commit the accused for trial, or hold him to bail, the recognizances taken before the first mentioned justice shall be void.

**558.** Any one who, upon reasonable or probable grounds, believes that any person has committed an indictable offence against this Act may make a complaint or lay an information in writing and under oath before any magistrate or justice of the peace having jurisdiction to issue a warrant or summons against such accused person in respect of such offence. Information.

2. Such complaint or information may be in the form C in schedule one hereto, or to the like effect.

**559.** Upon receiving any such complaint or information the justice shall hear and consider the allegations of the complainant, and if of opinion that a case for so doing is made out he shall issue a summons, or warrant, as the case may be, in manner hereinafter mentioned; and such justice shall not refuse to issue such summons or warrant only because the alleged offence is one for which an offender may be arrested without warrant. Hearing on information. R.S.C., c. 174, s. 30.

**560.** Whenever any indictable offence is committed on the high seas, or in any creek, harbour, haven or other place in which the Admiralty of England have or claim to have jurisdiction, and whenever any offence is committed on land beyond the seas for which an indictment may be preferred or the offender may be arrested in Canada, any justice for any territorial division in which any person charged with, or suspected of, having committed any such offence is or is suspected to be, may issue his warrant, in the form D in schedule one hereto, or to the like effect, to apprehend such person, to be dealt with as herein and hereby directed. Warrant in cases of offence committed on the seas, &c. R.S.C., c. 174, s. 32.

**561.** Every one who is reasonably suspected of being a deserter from Her Majesty's service may be apprehended and brought for examination before any justice of the peace, and if it appears that he is a deserter he shall be confined in gaol until claimed by the military or naval authorities, or proceeded against according to law. Arrest of suspected deserter. R.S.C., c. 169, s. 6.

2. No one shall break open any building to search for a deserter unless he has obtained a warrant for that purpose from a justice of the peace,—such warrant to be founded on affidavit that there is reason to believe that the deserter is concealed in such building, and that admittance has been demanded and refused; and every one who resists the execution of any such warrant shall incur a penalty of eighty dollars, recoverable on summary conviction in like manner as other penalties under this Act. R.S.C., c. 169, s. 7.

**562.** Every summons issued by a justice under this Act shall be directed to the accused, and shall require him to appear at a time and place to be therein mentioned. Such summons may be in the form E in schedule one hereto, or to the like effect. Contents of summons, and form of summons. No summons shall be signed in blank.

2. Every such summons shall be served by a constable or other peace officer upon the person to whom it is directed, either by delivering it to him personally or, if such person cannot conveniently be met with, by leaving it for him at his last or most usual place of abode with some inmate thereof apparently not under sixteen years of age.

3. The service of any such summons may be proved by the oral testimony of the person effecting the same or by the affidavit of such person purporting to be made before a justice.

Warrant for  
apprehension  
in first  
instance.

**563.** The warrant issued by a justice for the apprehension of the person against whom an information or complaint has been laid as provided in section five hundred and fifty-eight may be in the form F in schedule one hereto, or to the like effect. No such warrant shall be signed in blank.

2. Every such warrant shall be under the hand and seal of the justice issuing the same, and may be directed, either to any constable by name, or to such constable and all other constables within the territorial jurisdiction of the justice issuing it, or generally to all constables within such jurisdiction.

3. The warrant shall state shortly the offence for which it is issued, and shall name or otherwise describe the offender, and it shall order the officer or officers to whom it is directed to apprehend the offender and bring him before the justice or justices issuing the warrant, or before some other justice or justices, to answer to the charge contained in the said information or complaint, and to be further dealt with according to law. It shall not be necessary to make such warrant returnable at any particular time, but the same shall remain in force until it is executed.

4. The fact that a summons has been issued shall not prevent any justice from issuing such warrant at any time before or after the time mentioned in the summons for the appearance of the accused; and where the service of the summons has been proved and the accused does not appear, or when it appears that the summons cannot be served, the warrant (form G) may issue. R.S.C., c. 174, ss. 43, 44 and 46.

Execution of  
warrant.

**564.** Every such warrant may be executed by arresting the accused wherever he is found in the territorial jurisdiction of the justice by whom it is issued, or, in the case of fresh pursuit, at any place in an adjoining territorial division within seven miles of the border of the first-mentioned division. R.S.C., 174, ss. 47 and 48.

2. Every such warrant may be executed by any constable named therein, or by any one of the constables to whom it is directed, whether or not the place in which it is to be executed is within the place for which he is a constable.



3. Every warrant authorized by this Act may be issued and executed on a Sunday or statutory holiday. R. S. C., c. 174, ss. 47 and 48.

**565.** If the person against whom any warrant has been issued cannot be found within the jurisdiction of the justice by whom the same was issued, but is or is suspected to be in any other part of Canada, any justice within whose jurisdiction he is or is suspected to be, upon proof being made on oath or affirmation of the handwriting of the justice who issued the same, shall make an endorsement on the warrant, signed with his name, authorizing the execution thereof within his jurisdiction; and such endorsement shall be sufficient authority to the person bringing such warrant, and to all other persons to whom the same was originally directed, and also to all constables of the territorial division where the warrant has been so endorsed, to execute the same therein and to carry the person against whom the warrant issued, when apprehended, before the justice who issued the warrant, or before some other justice for the same territorial division. Such endorsement may be in the form H in schedule one hereto. R. S. C., c. 174, s. 49.

Proceeding when offender is not within the jurisdiction of the justice issuing the warrant.

**566.** If the prosecutor or any of the witnesses for the prosecution are in the territorial division where such person has been apprehended upon a warrant endorsed as provided in the last preceding section the constable or other person or persons who have apprehended him may, if so directed by the justice endorsing the warrant, take him before such justice, or before some other justice for the same territorial division; and the said justice may thereupon take the examination of such prosecutor or witnesses, and proceed in every respect as if he had himself issued the warrant. R. S. C., c. 174, s. 50.

Disposal of person arrested on endorsed warrant.

**567.** When any person is arrested upon a warrant he shall, except in the case provided for in the next preceding section, be brought as soon as is practicable before the justice who issued it or some other justice for the same territorial division, and such justice shall either proceed with the inquiry or postpone it to a future time, in which latter case he shall either commit the accused person to proper custody or admit him to bail or permit him to be at large on his own recognizance according to the provisions hereinafter contained.

Disposal of person apprehended on warrant.

**568.** Every coroner, upon any inquisition taken before him whereby any person is charged with manslaughter or murder, shall (if the person or persons, or either of them, affected by such verdict or finding be not already charged with the said offence before a magistrate or justice), by warrant under his hand, direct that such person be taken into custody and be conveyed,

Coroner's inquisition.

conveyed, with all convenient speed, before a magistrate or justice; or such coroner may direct such person to enter into a recognizance before him, with or without a surety or sureties, to appear before a magistrate or justice. In either case, it shall be the duty of the coroner to transmit to such magistrate or justice the depositions taken before him in the matter. Upon any such person being brought or appearing before any such magistrate or justice, he shall proceed in all respects as though such person had been brought or had appeared before him upon a warrant or summons.

Search  
warrant.

**569.** Any justice who is satisfied by information upon oath in the form J in schedule one hereto, that there is reasonable ground for believing that there is in any building, receptacle, or place—

(a.) anything upon or in respect of which any offence against this Act has been or is suspected to have been committed; or

(b.) anything which there is reasonable ground to believe will afford evidence as to the commission of any such offence; or

(c.) anything which there is reasonable ground to believe is intended to be used for the purpose of committing any offence against the person for which the offender may be arrested without warrant—

may at any time issue a warrant under his hand authorizing some constable or other person named therein to search such building, receptacle or place, for any such thing, and to seize and carry it before the justice issuing the warrant, or some other justice for the same territorial division to be by him dealt with according to law. R.S.C., c. 174, ss. 51 and 52.

2. Every search warrant shall be executed by day, unless the justice shall by the warrant authorize the constable or other person to execute it at night.

3. Every search warrant may be in the form I in schedule one hereto, or to the like effect.

4. When any such thing is seized and brought before such justice he may detain it, taking reasonable care to preserve it till the conclusion of the investigation; and, if any one is committed for trial, he may order it further to be detained for the purpose of evidence on the trial. If no one is committed, the justice shall direct such thing to be restored to the person from whom it was taken, except in the cases next hereinafter mentioned, unless he is authorized or required by law to dispose of it otherwise. In case any improved arm or ammunition in respect to which any offence under section one hundred and sixteen has been committed has been seized, it shall be forfeited to the Crown. R.S.C., c. 50, s. 101.

5. If under any such warrant there is brought before any justice any forged bank note, bank note-paper, instrument or other thing, the possession whereof in the absence of lawful

lawful excuse is an offence under any provision of this or any other Act, the court to which any such person is committed for trial or, if there is no commitment for trial, such justice may cause such thing to be defaced or destroyed. R.S.C., c. 174, s. 55.

6. If under any such warrant there is brought before any justice, any counterfeit coin or other thing the possession of which with knowledge of its nature and without lawful excuse is an indictable offence under any provision of Part XXXV. of this Act, every such thing as soon as it has been produced in evidence, or as soon as it appears that it will not be required to be so produced, shall forthwith be defaced or otherwise disposed of as the justice or the court directs. R.S.C., c. 174, s. 56.

7. Every person acting in the execution of any such warrant may seize any explosive substance which he has good cause to suspect is intended to be used for any unlawful object,—and shall, with all convenient speed, after the seizure, remove the same to such proper place as he thinks fit, and detain the same until ordered by a judge of a superior court to restore it to the person who claims the same. R.S.C., c. 150, s. 11.

8. Any explosive substance so seized shall, in the event of the person in whose possession the same is found, or of the owner thereof, being convicted of any offence under Part VI. of this Act, be forfeited; and the same shall be destroyed or sold under the direction of the court before which such person is convicted, and, in the case of sale, the proceeds arising therefrom shall be paid to the Minister of Finance and Receiver General, for the public uses of Canada. R.S.C., c. 150, s. 12.

9. If offensive weapons believed to be dangerous to the public peace are seized under a search warrant the same shall be kept in safe custody in such place as the justice directs, unless the owner thereof proves, to the satisfaction of such justice, that such offensive weapons were not kept for any purpose dangerous to the public peace; and any person from whom any such offensive weapons are so taken may, if the justice of the peace upon whose warrant the same are taken, upon application made for that purpose, refuses to restore the same, apply to a judge of a superior or county court for the restitution of such offensive weapons, upon giving ten days' previous notice of such application to such justice: and such judge shall make such order for the restitution or safe custody of such offensive weapons as upon such application appears to him to be proper. R.S.C., c. 149, ss. 2 and 3.

10. If goods or things by means of which it is suspected that an offence has been committed under Part XXXIII. are seized under a search warrant, and brought before a justice, such justice and one or more other justice or justices shall determine summarily whether the same are or are not forfeited under the said Part XXXIII.; and if the owner of any goods

goods or things which, if the owner thereof had been convicted, would be forfeited under this Act, is unknown or cannot be found, an information or complaint may be laid for the purpose only of enforcing such forfeiture, and the said justice may cause notice to be advertised stating that unless cause is shown to the contrary at the time and place named in the notice, such goods or things will be declared forfeited; and at such time and place the justice, unless the owner, or any person on his behalf, or other person interested in the goods or things, shows cause to the contrary, may declare such goods or things, or any of them, forfeited. 51 V., c. 41, s. 14.

Search for  
public stores.

**570.** Any constable or other peace officer, if deputed by any public department, may, within the limits for which he is such constable or peace officer, stop, detain and search any person reasonably suspected of having or conveying in any manner any public stores defined in section three hundred and eighty-three, stolen or unlawfully obtained, or any vessel, boat or vehicle in or on which there is reason to suspect that any public stores stolen or unlawfully obtained may be found.

2. A constable or other peace officer shall be deemed to be deputed within the meaning of this section if he is deputed by any writing signed by the person who is the head of such department, or who is authorized to sign documents on behalf of such department.

Search warrant for gold,  
silver, &c.

**571.** On complaint in writing made to any justice of the county, district or place, by any person interested in any mining claim, that mined gold or gold-bearing quartz, or mined or unmanufactured silver or silver ore, is unlawfully deposited in any place, or held by any person contrary to law, a general search warrant may be issued by such justice, as in the case of stolen goods, including any number of places or persons named in such complaint; and if, upon such search, any such gold or gold-bearing quartz, or silver or silver ore is found to be unlawfully deposited or held, the justice shall make such order for the restoration thereof to the lawful owner as he considers right.

2. The decision of the justice in such case is subject to appeal as in ordinary cases coming within the provisions of Part LVIII. R.S.C., c. 174, s. 53.

Search for  
timber, &c.,  
unlawfully  
detained.

**572.** If any constable or other peace officer has reasonable cause to suspect that any timber, mast, spar, saw-log or other description of lumber, belonging to any lumberman or owner of lumber, and bearing the registered trade mark of such lumberman or owner of lumber, is kept or detained in any saw-mill, mill-yard, boom or raft, without the knowledge or consent of the owner, such constable or other peace officer may enter into or upon the same, and search or examine,  
for



for the purpose of ascertaining whether such timber, mast, spar, saw-log or other description of lumber is detained therein without such knowledge and consent. R.S.C., c. 174, s. 54.

**573.** Any officer in Her Majesty's service, any warrant or petty officer of the navy, or any non-commissioned officer of marines, with or without seamen or persons under his command, may search any boat or vessel which hovers about or approaches, or which has hovered about or approached, any of Her Majesty's ships or vessels mentioned in section one hundred and nineteen, Part VI. of this Act, and may seize any intoxicating liquor found on board such boat or vessel; and the liquor so found shall be forfeited to the Crown. 50-51 V., c. 46, s. 3.

Search for  
liquors near  
Her Majesty's  
vessels.

**574.** Whenever there is reason to believe that any woman or girl mentioned in section one hundred and eighty-five, Part XIII., has been inveigled or enticed to a house of ill-fame or assignation, then upon complaint thereof being made under oath by the parent, husband, master or guardian of such woman or girl, or in the event of such woman or girl having no known parent, husband, master nor guardian in the place in which the offence is alleged to have been committed, by any other person, to any justice of the peace, or to a judge of any court authorized to issue warrants in cases of alleged offences against the criminal law, such justice of the peace or judge of the court may issue a warrant to enter, by day or night, such house of ill-fame or assignation, and if necessary use force for the purpose of effecting such entry whether by breaking open doors or otherwise, and to search for such woman or girl, and bring her, and the person or persons in whose keeping and possession she is, before such justice of the peace or judge of the court, who may, on examination, order her to be delivered to her parent, husband, master or guardian, or to be discharged, as law and justice require. R.S.C., c. 157, s. 7.

Search for  
women in  
house of ill-  
fame.

**575.** If the chief constable or deputy chief constable of any city or town, or other officer authorized to act in his absence, reports in writing to any of the commissioners of police or mayor of such city or town, or to the police magistrate of any town, that there are good grounds for believing, and that he does believe, that any house, room or place within the said city or town is kept or used as a common gaming or betting-house as defined in Part XIV., sections one hundred and ninety-six and one hundred and ninety-seven, or is used for the purpose of carrying on a lottery, or for the sale of lottery tickets, contrary to the provisions of Part XV., section two hundred and five, whether admission thereto is limited to those possessed of entrance keys or otherwise, the said commissioners or commissioner, or mayor, or the said police magistrate, may, by order in writing, authorize the chief

Search in  
gaming-house

chief constable, deputy chief constable, or other officer as aforesaid, to enter any such house, room or place, with such constables as are deemed requisite by the chief constable, deputy chief constable or other officer,—and, if necessary, to use force for the purpose of effecting such entry, whether by breaking open doors or otherwise,—and to take into custody all persons who are found therein, and to seize, as the case may be (1) all tables and instruments of gaming, and all moneys and securities for money, or (2) all instruments or devices for the carrying on of such lottery, and all lottery tickets found in such house or premises. R.S.C., c. 158, s. 2.

2. The chief constable, deputy chief constable or other officer making such entry, in obedience to any such order, may, with the assistance of one or more constables, search all parts of the house, room or place which he has so entered, where he suspects that tables or instruments of gaming or betting, or any instruments or devices for the carrying on of such lottery or any lottery tickets, are concealed, and all persons whom he finds in such house or premises, and seize all tables and instruments of gaming, or any such instruments or devices or lottery tickets as aforesaid, which he so finds. R.S.C., c. 158, s. 3.

3. The police magistrate or other justice of the peace before whom any person is taken by virtue of an order or warrant under this section, may direct any cards, dice, balls, counters, tables or other instruments of gaming, used in playing any game, and seized under this Act in any place used as a common gaming-house, or any such instruments or devices for the carrying on of a lottery, or any such lottery tickets as aforesaid, to be forthwith destroyed, and any money or securities seized under this section shall be forfeited to the Crown for the public uses of Canada. R.S.C., c. 158, s. 5.

4. The expression “chief constable” includes chief of police, city marshal or other head of the police force of any city, town or place. R.S.C., c. 158, s. 1.

5. The expression “deputy chief constable” includes deputy chief of police, deputy or assistant city marshal or other deputy head of the police force of any city, town or place, and the expression “police magistrate” includes stipendiary magistrates.

Search for  
vagrant.

**576.** Any stipendiary or police magistrate, mayor or warden, or any two justices of the peace, upon information before them made, that any person described in Part XV. as a loose, idle or disorderly person, or vagrant, is or is reasonably suspected to be harboured or concealed in any disorderly house, bawdy-house, house of ill-fame, tavern or boarding-house, may, by warrant, authorize any constable or other person to enter at any time such house or tavern, and to apprehend and bring before them or any other justices of the peace, every person found therein so suspected as aforesaid. R.S.C., c. 157, s. 8.

## PART XLV.

## PROCEDURE ON APPEARANCE OF ACCUSED.

**577.** When any person accused of an indictable offence is before a justice, whether voluntarily or upon summons, or after being apprehended with or without warrant, or while in custody for the same or any other offence, the justice shall proceed to inquire into the matters charged against such person in the manner hereinafter defined. Hearing by justice.

**578.** No irregularity or defect in the substance or form of the summons or warrant, and no variance between the charge contained in the summons or warrant and the charge contained in the information, or between either and the evidence adduced on the part of the prosecution at the inquiry, shall affect the validity of any proceeding at or subsequent to the hearing. Irregularity in proceeding appearance. R.S.C., c. 174, s. 58.

**579.** If it appears to the justice that the person charged has been deceived or misled by any such variance in any summons or warrant, he may adjourn the hearing of the case to some future day, and in the meantime may remand such person, or admit him to bail as hereinafter mentioned. Adjournment in case of variance. R.S.C., c. 174, s. 59.

**580.** If it appears to the justice that any person being or residing within the province is likely to give material evidence either for the prosecution or for the accused on such inquiry he may issue a summons under his hand, requiring such person to appear before him at a time and place mentioned therein to give evidence respecting the charge, and to bring with him any documents in his possession or under his control relating thereto. Process of attachment of witnesses.

2. Such summons may be in the form K in schedule one hereto, or to the like effect. R.S.C., c. 174, s. 60.

**581.** Every such summons shall be served by a constable or other peace officer upon the person to whom it is directed either personally, or, if such person cannot conveniently be met with, by leaving it for him at his last or most usual place of abode with some inmate thereof apparently not under sixteen years of age. Service of summons for witness.

**582.** If any one to whom such last-mentioned summons is directed does not appear at the time and place appointed thereby, and no just excuse is offered for such non-appearance, then (after proof upon oath that such summons has been served as aforesaid, or that the person to whom the summons is directed is keeping out of the way to avoid service) the justice before whom such person ought to have appeared, Warrant for arrest after summons.

appeared, being satisfied by proof on oath that he is likely to give material evidence, may issue a warrant under his hand to bring such person at a time and place to be therein mentioned before him or any other justice in order to testify as aforesaid.

2. The warrant may be in the form L in schedule one hereto, or to the like effect. Such warrant may be executed anywhere within the territorial jurisdiction of the justice by whom it is issued, or, if necessary, endorsed as provided in section five hundred and sixty-five and executed anywhere in the province but out of such jurisdiction. R.S.C., c. 174, s. 61.

3. If a person summoned as a witness under the provisions of this part is brought before a justice on a warrant issued in consequence of refusal to obey the summons such person may be detained on such warrant before the justice who issued the summons, or before any other justice in and for the same territorial division who shall then be there, or in the common gaol, or any other place of confinement, or in the custody of the person having him in charge, with a view to secure his presence as a witness on the day fixed for the trial; or in the discretion of the justice such person may be released on recognizance, with or without sureties, conditioned for his appearance to give evidence as therein mentioned, and to answer for his default in not attending upon the said summons as for contempt; and the justice may, in a summary manner, examine into and dispose of the charge of contempt against such person, who, if found guilty thereof, may be fined or imprisoned, or both, such fine not to exceed twenty dollars, and such imprisonment to be in the common gaol, without hard labour, and not to exceed the term of one month, and may also be ordered to pay the costs incident to the service and execution of the said summons and warrant and of his detention in custody. 51 V., c. 45, s. 1.

(The conviction under this section may be in the form PP in schedule one hereto.)

Warrant for  
witness in  
first instance.

**583.** If the justice is satisfied by evidence upon oath that any person within the province, likely to give material evidence either for the prosecution or for the accused, will not attend to give evidence without being compelled so to do, then instead of issuing a summons, he may issue a warrant in the first instance. Such warrant may be in the form M in schedule one hereto, or to the like effect, and may be executed anywhere within the jurisdiction of such justice, or, if necessary, endorsed as provided in section five hundred and sixty-five and executed anywhere in the province but out of such jurisdiction. R.S.C., c. 174, s. 62.

Procuring at-  
tendance of  
witnesses

**584.** If there is reason to believe that any person residing anywhere in Canada out of the province and not being within



within the province, is likely to give material evidence either beyond jurisdiction of justice. for the prosecution or for the accused, any judge of a Superior Court or a County Court, on application therefor by the informant or complainant, or the Attorney-General, or by the accused person or his solicitor or some person authorized by the accused, may cause a writ of subpœna to be issued under the seal of the court of which he is a judge, requiring such person to appear before the justice before whom the inquiry is being held or is intended to be held at a time and place mentioned therein to give evidence respecting the charge and to bring with him any documents in his possession or under his control relating thereto.

2. Such subpœna shall be served personally upon the person to whom it is directed and an affidavit of such service by a person effecting the same purporting to be made before a justice of the peace, shall be sufficient proof thereof.

3. If the person served with a subpœna as provided by this section, does not appear at the time and place specified therein, and no just excuse is offered for his non-appearance, the justice holding the inquiry, after proof upon oath that the subpœna has been served, may issue a warrant under his hand directed to any constable or peace officer of the district, county or place where such person is, or to all constables or peace officers in such district, county or place, directing them or any of them to arrest such person and bring him before the said justice or any other justice at a time and place mentioned in such warrant in order to testify as aforesaid.

4. The warrant may be in the form N in schedule one hereto or to the like effect. If necessary, it may be endorsed in the manner provided by section five hundred and sixty-five, and executed in a district, county or place other than the one therein mentioned.

**585.** Whenever any person appearing, either in obedience to a summons or subpœna, or by virtue of a warrant, or being present and being verbally required by the justice to give evidence, refuses to be sworn, or having been sworn, refuses to answer such questions as are put to him, or refuses or neglects to produce any documents which he is required to produce, or refuses to sign his depositions without in any such case offering any just excuse for such refusal, such justice may adjourn the proceedings for any period not exceeding eight clear days, and may in the meantime by warrant in form O in schedule one hereto, or to the like effect, commit the person so refusing to gaol, unless he sooner consents to do what is required of him. If such person, upon being brought up upon such adjourned hearing, again refuses to do what is so required of him, the justice, if he sees fit, may again adjourn the proceedings, and commit him for the like period, and so again from time to time until such person consents to do what is required of him.

Witness refusing to be examined.

2. Nothing in this section shall prevent such justice from sending any such case for trial, or otherwise disposing of the same in the meantime, according to any other sufficient evidence taken by him. R.S.C., c. 174, s. 63.

Discretionary  
powers of the  
justice.

**586.** A justice holding the preliminary inquiry may in his discretion—

(a.) permit or refuse permission to the prosecutor, his counsel or attorney to address him in support of the charge, either by way of opening or summing up the case, or by way of reply upon any evidence which may be produced by the person accused;

(b.) receive further evidence on the part of the prosecutor after hearing any evidence given on behalf of the accused;

(c.) adjourn the hearing of the matter from time to time, and change the place of hearing, if from the absence of witnesses, the inability of a witness who is ill to attend at the place where the justice usually sits, or from any other reasonable cause, it appears desirable to do so, and may remand the accused if required by warrant in the form P in schedule one hereto: Provided that no such remand shall be for more than eight clear days, the day following that on which the remand is made being counted as the first day; and further provided, that if the remand is for a time not exceeding three clear days, the justice may verbally order the constable or other person in whose custody the accused then is, or any other constable or person named by the justice in that behalf, to keep the accused person in his custody and to bring him before the same or such other justice as shall be there acting at the time appointed for continuing the examination; R.S.C., c. 174, s. 65.

(d.) order that no person other than the prosecutor and accused, their counsel and solicitor shall have access to or remain in the room or building in which the inquiry is held (which shall not be an open court), if it appears to him that the ends of justice will be best answered by so doing;

(e.) regulate the course of the inquiry in any way which may appear to him desirable, and which is not inconsistent with the provisions of this Act.

Bail on  
remand.

**587.** If the accused is remanded under the next preceding section the justice may discharge him, upon his entering into a recognizance in the form Q in schedule one hereto, with or without sureties in the discretion of the justice, conditioned for his appearance at the time and place appointed for the continuance of the examination. R.S.C., c. 174, s. 67.

Hearing may  
proceed  
during time of  
remand.

**588.** The justice may order the accused person to be brought before him, or before any other justice for the same territorial division, at any time before the expiration of the time for which such person has been remanded, and the gaoler or officer in whose custody he then is shall duly obey such order. R.S.C., c. 174, s. 66.

**589.** If the accused person does not afterwards appear at the time and place mentioned in the recognizance the said justice, or any other justice who is then and there present, having certified upon the back of the recognizance the non-appearance of such accused person, in the form R in schedule one hereto, may transmit the recognizance to the clerk of the court where the accused person is to be tried, or other proper officer appointed by law, to be proceeded upon in like manner as other recognizances; and such certificate shall be *prima facie* evidence of the non-appearance of the accused person. R.S.C., c. 174, s. 68.

Breach of  
recognizance  
on remand.

**590.** When the accused is before a justice holding an inquiry, such justice shall take the evidence of the witnesses called on the part of the prosecution.

Evidence for  
the prosecu-  
tion.

2. The evidence of the said witnesses shall be given upon oath and in the presence of the accused; and the accused, his counsel or solicitor, shall be entitled to cross-examine them.

3. The evidence of each witness shall be taken down in writing in the form of a deposition, which may be in the form S in schedule one hereto, or to the like effect.

4. Such deposition shall, at some time before the accused is called on for his defence, be read over to and signed by the witness and the justice, the accused, the witness and justice being all present together at the time of such reading and signing.

5. The signature of the justice may either be at the end of the deposition of each witness, or at the end of several or of all the depositions in such a form as to show that the signature is meant to authenticate each separate deposition.

6. Every justice holding a preliminary inquiry is hereby required to cause the depositions to be written in a legible hand and on one side only of each sheet of paper on which they are written. R.S.C., c. 174, s. 69.

7. Provided that the evidence upon such inquiry or any part of the same may be taken in shorthand by a stenographer who may be appointed by the justice and who before acting shall make oath that he shall truly and faithfully report the evidence; and where evidence is so taken, it shall not be necessary that such evidence be read over to or signed by the witness, but it shall be sufficient if the transcript be signed by the justice and be accompanied by an affidavit of the stenographer that it is a true report of the evidence.

**591.** After the examination of the witnesses produced on the part of the prosecution has been completed, and after the depositions have been signed as aforesaid, the justice unless he discharges the accused person, shall ask him whether he wishes the depositions to be read again, and unless the accused dispenses therewith shall read or cause them to be read again. When the depositions have been again read, or

Evidence to  
be read to the  
accused.

the reading dispensed with, the accused shall be addressed by the justice in these words, or to the like effect :

“ Having heard the evidence, do you wish to say anything in answer to the charge ? You are not bound to say anything, but whatever you do say will be taken down in writing and may be given in evidence against you at your trial. You must clearly understand that you have nothing to hope from any promise of favour and nothing to fear from any threat which may have been held out to you to induce you to make any admission or confession of guilt, but whatever you now say may be given in evidence against you upon your trial notwithstanding such promise or threat.”

2. Whatever the accused then says in answer thereto shall be taken down in writing in the form T in schedule one hereto, or to the like effect, and shall be signed by the justice and kept with the depositions of the witnesses and dealt with as hereinafter mentioned. R.S.C., c. 174, ss. 70 and 71.

Confession or admission of accused.

**592.** Nothing herein contained shall prevent any prosecutor from giving in evidence any admission or confession, or other statement, made at any time by the person accused or charged, which by law would be admissible as evidence against him. R.S.C., c. 174, s. 72.

Evidence for the defence.

**593.** After the proceedings required by section five hundred and ninety-one are completed the accused shall be asked if he wishes to call any witnesses.

2. Every witness called by the accused who testifies to any fact relevant to the case shall be heard, and his deposition shall be taken in the same manner as the depositions of the witnesses for the prosecution.

Discharge of accused.

**594.** When all the witnesses on the part of the prosecution and the accused have been heard the justice shall, if upon the whole of the evidence he is of opinion that no sufficient case is made out to put the accused upon his trial, discharge him ; and in such case any recognizances taken in respect of the charge shall become void, unless some person is bound over to prosecute under the provisions next hereinafter contained R.S.C., c. 174, s. 73.

Copy of depositions.

**595.** If the justice discharges the accused, and the person preferring the charge desires to prefer an indictment respecting the said charge, he may require the justice to bind him over to prefer and prosecute such an indictment and thereupon the justice shall take his recognizance to prefer and prosecute an indictment against the accused before the court by which such accused would be tried if such justice had committed him, and the justice shall deal with the recognizance, information and depositions in the same way as if he had committed the accused for trial.



2. Such recognizance may be in the form U in schedule one hereto, or to the like effect.

3. If the prosecutor so bound over at his own request does not prefer and prosecute such an indictment, or if the grand jury do not find a true bill, or if the accused is not convicted upon the indictment so preferred, the prosecutor shall, if the court so direct, pay to the accused person his costs, including the costs of his appearance on the preliminary inquiry.

4. The court before which the indictment is to be tried or a judge thereof may in its or his discretion order that the prosecutor shall not be permitted to prefer any such indictment until he has given security for such costs to the satisfaction of such court or judge. R.S.C., c. 174, s. 80.

**596.** If a justice holding a preliminary inquiry thinks that the evidence is sufficient to put the accused on his trial, he shall commit him for trial by a warrant of commitment, which may be in the form V in schedule one hereto, or to the like effect. R.S.C., c. 174, s. 73. Commitment of accused for trial.

**597.** Every one who has been committed for trial, whether he is bailed or not, may be entitled at any time before the trial to have copies of the depositions, and of his own statement, if any, from the officer who has custody thereof, on payment of a reasonable sum not exceeding five cents for each folio of one hundred words. R.S.C., c. 174, s. 74. Copy of depositions.

**598.** When any one is committed for trial the justice holding the preliminary inquiry may bind over to prosecute some person willing to be so bound, and bind over every witness whose deposition has been taken, and whose evidence in his opinion is material, to give evidence at the court before which the accused is to be indicted. Recognizances to prosecute or give evidence.

2. Every recognizance so entered into shall specify the name and surname of the person entering into it, his occupation or profession if any, the place of his residence and the name and number if any of any street in which it may be, and whether he is owner or tenant thereof or a lodger therein.

3. Such recognizance may be either at the foot of the deposition or separate therefrom, and may be in the form W. X or Y in schedule one hereto, or to the like effect, and shall be acknowledged by the person entering into the same, and be subscribed by the justice or one of the justices before whom it is acknowledged.

4. Every such recognizance shall bind the person entering into it to prosecute or give evidence (both or either as the case may be), before the court by which the accused shall be tried.

5. All such recognizances and all other recognizances taken under this Act shall be liable to be estreated in the same manner as any forfeited recognizance to appear is by law

law liable to be estreated by the court before which the principal party thereto was bound to appear. R.S.C., c. 174, ss. 75 and 76.

6. Whenever any person is bound by recognizance to give evidence before a justice of the peace, or any criminal court, in respect of any offence under this Act, any justice of the peace, if he sees fit, upon information being made in writing and on oath, that such person is about to abscond, or has absconded, may issue his warrant for the arrest of such person; and if such person is arrested any justice of the peace, upon being satisfied that the ends of justice would otherwise be defeated, may commit such person to prison until the time at which he is bound by such recognizance to give evidence, unless in the meantime he produces sufficient sureties; but any person so arrested shall be entitled on demand to receive a copy of the information upon which he warrant for his arrest was issued. 48-49 V., c. 7, s. 9.

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Witness refusing to be bound over.

**599.** Any witness who refuses to enter into or acknowledge any such recognizance as aforesaid may be committed by the justice holding the inquiry by a warrant in the form Z in schedule one hereto, or to the like effect, to the prison for the place where the trial is to be had, there to be kept until after the trial, or until the witness enters into such a recognizance as aforesaid before a justice of the peace having jurisdiction in the place where the prison is situated: Provided that if the accused is afterwards discharged any justice having such jurisdiction may order any such witness to be discharged by an order which may be in the form AA in the said schedule, or to the like effect. R.S.C., c. 174, ss. 78 and 79.

Transmission of documents.

**600.** The following documents shall, as soon as may be after the committal of the accused, be transmitted to the clerk or other proper officer of the court by which the accused is to be tried, that is to say, the information if any, the depositions of the witnesses, the exhibits thereto, the statement of the accused, and all recognizances entered into, and also any depositions taken before a coroner if any such have been sent to the justice.

2. When any order changing the place of trial is made the person obtaining it shall serve it, or an office copy of it, upon the person then in possession of the said documents, who shall thereupon transmit them and the indictment, if found, to the officer of the court before which the trial is to take place. R.S.C., c. 174, s. 77.

Rule as to bail.

**601.** When any person appears before any justice charged with an indictable offence punishable by imprisonment or more than five years other than treason or an offence punishable with death, or an offence under Part IV. of this Act, and the evidence adduced is, in the opinion of such justice, sufficient

cient to put the accused on his trial, but does not furnish such a strong presumption of guilt as to warrant his committal for trial, the justice, jointly with some other justice, may admit the accused to bail upon his procuring and producing such surety or sureties as, in the opinion of the two justices, will be sufficient to ensure his appearance at the time and place when and where he ought to be tried for the offence; and thereupon the two justices shall take the recognizances of the accused and his sureties, conditioned for his appearance at the time and place of trial, and that he will then surrender and take his trial and not depart the court without leave; and in any case in which the offence committed or suspected to have been committed is an offence punishable by imprisonment for a term less than five years any one justice before whom the accused appears may admit to bail in manner aforesaid, and such justice or justices may, in his or their discretion, require such bail to justify upon oath as to their sufficiency, which oath the said justice or justices may administer; and in default of such person procuring sufficient bail, such justice or justices may commit him to prison, there to be kept until delivered according to law.

2. The recognizance mentioned in this section shall be in the form BB in schedule one to this Act. R.S.C., c. 174, s. 81.

**602.** In case of any offence other than treason or an offence punishable with death, or an offence under Part IV. of this Act, where the accused has been finally committed as herein provided, any judge of any superior or county court, having jurisdiction in the district or county within the limits of which the accused is confined, may, in his discretion, on application made to him for that purpose, order the accused to be admitted to bail on entering into recognizance with sufficient sureties before two justices, in such amount as the judge directs, and thereupon the justices shall issue a warrant of deliverance as hereinafter provided, and shall attach thereto the order of the judge directing the admitting of the accused to bail.

2. Such warrant of deliverance shall be in the form CC in schedule one to this Act. R.S.C., c. 174, s. 82.

**603.** No judge of a county court or justices shall admit any person to bail accused of treason or an offence punishable with death, or an offence under Part IV. of this Act, nor shall any such person be admitted to bail, except by order of a superior court of criminal jurisdiction for the province in which the accused stands committed, or of one of the judges thereof, or, in the province of Quebec, by order of a judge of the Court of Queen's Bench or Superior Court. R.S.C., c. 174, s. 83.

**604.** When any person has been committed for trial by any justice the prisoner, his counsel, solicitor or agent may notify

Bail after committal.

Bail by superior court.

Application for bail after committal.

notify the committing justice, that he will, as soon as counsel can be heard, move before a superior court of the province in which such person stands committed, or one of the judges thereof, or the judge of the county court, if it is intended to apply to such judge, under section six hundred and two, for an order to the justice to admit such prisoner to bail,—whereupon such committing justice shall, as soon as may be, transmit to the clerk of the Crown, or the chief clerk of the court, or the clerk of the county court or other proper officer, as the case may be, endorsed under his hand and seal, a certified copy of all informations, examinations and other evidence, touching the offence wherewith the prisoner has been charged, together with a copy of the warrant of commitment, and the packet containing the same shall be handed to the person applying therefor, for transmission, and it shall be certified on the outside thereof to contain the information concerning the case in question. R.S.C., c. 174, s. 93.

2. Upon such application to any such court or judge the same order concerning the prisoner being bailed or continued in custody, shall be made as if the prisoner was brought up upon a *habeas corpus*. R.S.C., c. 174, s. 94.

3. If any justice neglects or offends in anything contrary to the true intent and meaning of any of the provisions of this section, the court to whose officer any such examination, information, evidence, bailment or recognizance ought to have been delivered, shall, upon examination and proof of the offence, in a summary manner, impose such fine upon every such justice as the court thinks fit. R.S.C., c. 174, s. 95.

Warrant of  
deliverance.

**605.** Whenever any justice or justices admit to bail any person who is then in any prison charged with the offence for which he is so admitted to bail, such justice or justices shall send to or cause to be lodged with the keeper of such prison, a warrant of deliverance under his or their hands and seals, requiring the said keeper to discharge the person so admitted to bail if he is detained for no other offence, and upon such warrant of deliverance being delivered to or lodged with such keeper, he shall forthwith obey the same. R.S.C., c. 174, s. 84.

Warrant for  
the arrest of a  
person about  
to abscond.

**606.** Whenever a person charged with any offence has been bailed in manner aforesaid, it shall be lawful for any justice, if he sees fit, upon the application of the surety or of either of the sureties of such person and upon information being made in writing and on oath by such surety, or by some person on his behalf, that there is reason to believe that the person so bailed is about to abscond for the purpose of evading justice, to issue his warrant for the arrest of the person so bailed, and afterwards, upon being satisfied that the ends of justice would otherwise be defeated, to commit such



such person when so arrested to gaol until his trial or until he produces another sufficient surety or other sufficient sureties, as the case may be, in like manner as before.

**607.** The constable or any of the constables, or other person to whom any warrant of commitment authorized by this or any other Act or law is directed, shall convey the accused person therein named or described to the gaol or other prison mentioned in such warrant, and there deliver him, together with the warrant, to the keeper of such gaol or prison, who shall thereupon give the constable or other person delivering the prisoner into his custody, a receipt for the prisoner, setting forth the state and condition of the prisoner when delivered into his custody.

2. Such receipt shall be in the form DD in schedule one hereto. R.S.C., c. 174, s. 85.

Delivery of  
accused to  
prison.

#### PART XLVI.

#### INDICTMENTS.

**608.** It shall not be necessary for any indictment or any record or document relative to any criminal case to be written on parchment. R.S.C., c. 174, s. 103.

Indictments  
need not be on  
parchment.

**609.** It shall not be necessary to state any venue in the body of any indictment, and the district, county or place named in the margin thereof, shall be the venue for all the facts stated in the body of the indictment; but if local description is required such local description shall be given in the body thereof. R.S.C., c. 174, s. 104.

Statement of  
venue.

**610.** It shall not be necessary to state in any indictment that the jurors present upon oath or affirmation.

Heading of  
indictment.

2. It shall be sufficient if an indictment begins in one of the forms EE in schedule one hereto, or to the like effect.

3 Any mistake in the heading shall upon being discovered be forthwith amended, and whether amended or not shall be immaterial.

**611.** Every count of an indictment shall contain, and shall be sufficient if it contains, in substance a statement that the accused has committed some indictable offence therein specified.

Form and  
contents of  
counts.

2. Such statement may be made in popular language without any technical averments or any allegations of matter not essential to be proved.

3. Such statement may be in the words of the enactment describing the offence or declaring the matter charged to be an indictable offence or in any words sufficient to give the accused notice of the offence with which he is charged.

4. Every count shall contain so much detail of the circumstances of the alleged offence as is sufficient to give the accused reasonable information as to the act or omission to be proved against him, and to identify the transaction referred to : Provided that the absence or insufficiency of such details shall not vitiate the count.

5. A count may refer to any section or subsection of any statute creating the offence charged therein, and in estimating the sufficiency of such count the court shall have regard to such reference.

6. Every count shall in general apply only to a single transaction.

Offences may be charged in the alternative.

**612.** A count shall not be deemed objectionable on the ground that it charges in the alternative several different matters, acts or omissions which are stated in the alternative in the enactment describing any indictable offence or declaring the matters, acts or omissions charged to be an indictable offence, or on the ground that it is double or multifarious : Provided that the accused may at any stage of the trial apply to the court to amend or divide any such count on the ground that it is so framed as to embarrass him in his defence.

2. The court, if satisfied that the ends of justice require it, may order any count to be amended or divided into two or more counts, and on such order being made such count shall be so divided or amended, and thereupon a formal commencement may be inserted before each of the counts into which it is divided.

Certain objections not to vitiate counts.

**613.** No count shall be deemed objectionable or insufficient on any of the following grounds ; that is to say :

(a.) that it does not contain the name of the person injured, or intended, or attempted to be injured ; or

(b.) that it does not state who is the owner of any property therein mentioned ; or

(c.) that it charges an intent to defraud without naming or describing the person whom it was intended to defraud ; or

(d.) that it does not set out any document which may be the subject of the charge ; or.

(e.) that it does not set out the words used where words used are the subject of the charge ; or

(f.) that it does not specify the means by which the offence was committed ; or

(g.) that it does not name or describe with precision any person, place or thing :

Provided that the court may, if satisfied that it is necessary for a fair trial, order that a particular further describing such document, words, means, person, place or thing be furnished by the prosecutor.

Indictment for high treason or

**614.** Every indictment for treason or for any offence against Part IV. of this Act must state overt acts, and no evidence

evidence shall be admitted of any overt act not stated unless it is otherwise relevant as tending to prove some overt act stated. treasonable offence.

2. The power of amending indictments herein contained shall not extend to authorize the court to add to the overt acts stated in the indictment.

**615.** No count for publishing a blasphemous, seditious, obscene or defamatory libel, or for selling or exhibiting an obscene book, pamphlet, newspaper or other printed or written matter, shall be deemed insufficient on the ground that it does not set out the words thereof: Provided that the court may order that a particular shall be furnished by the prosecutor stating what passages in such book, pamphlet, newspaper, printing or writing are relied on in support of the charge. Indictments for libel.

2. A count for libel may charge that the matter published was written in a sense which would make the publishing criminal, specifying that sense without any prefatory averment showing how that matter was written in that sense. And on the trial it shall be sufficient to prove that the matter published was criminal either with or without such innuendo.

**616.** No count charging perjury, the making of a false oath or of a false statement, fabricating evidence or subornation, or procuring the commission of any of these offences, shall be deemed insufficient on the ground that it does not state the nature of the authority of the tribunal before which the oath or statement was taken or made, or the subject of the inquiry, or the words used or the evidence fabricated, or on the ground that it does not expressly negative the truth of the words used: Provided that the court may, if satisfied that it is necessary for a fair trial, order that the prosecutor shall furnish a particular of what is relied on in support of the charge. Indictment for perjury and certain other offences.

2. No count which charges any false pretense, or any fraud, or any attempt or conspiracy by fraudulent means, shall be deemed insufficient because it does not set out in detail in what the false pretenses or the fraud or fraudulent means consisted: Provided that the court may, if satisfied as aforesaid, order that the prosecutor shall furnish a particular of the above matters or any of them.

3. No provision hereinbefore contained in this part as to matters which are not to render any count objectionable or insufficient shall be construed as restricting or limiting in any way the general provisions of section six hundred and eleven. R.S.C., c. 174, s. 107.

**617.** When any such particular as aforesaid is delivered a copy shall be given without charge to the accused or his solicitor, and it shall be entered in the record and the trial shall Particulars.

shall proceed in all respects as if the indictment had been amended in conformity with such particular.

2. In determining whether a particular is required or not, and whether a defect in the indictment is material to the substantial justice of the case or not, the court may have regard to the depositions.

Indictment  
for pretending  
to send money,  
&c., in  
letter.

**618.** It shall not be necessary to allege, in any indictment against any person for wrongfully and wilfully pretending or alleging that he inclosed and sent, or caused to be inclosed and sent, in any post letter, any money, valuable security or chattel, or to prove on the trial, that the act was done with intent to defraud. R.S.C., c. 174, s. 113.

Indictments  
in certain  
cases.

**619.** An indictment shall be deemed sufficient in the cases following:

(a.) If it be necessary to name the joint owners of any real or personal property, whether the same be partners, joint tenants, parceners, tenants in common, joint stock companies or trustees, and it is alleged that the property belongs to one who is named, and another or others as the case may be;

(b.) If it is necessary for any purpose to mention such persons and one only is named;

(c.) If the property in a turnpike road is laid in the trustees or commissioners thereof without specifying the names of such trustees or commissioners;

(d.) If the offence is committed in respect to any property in the occupation or under the management of any public officer or commissioner, and the property is alleged to belong to such officer or commissioner without naming him;

(e.) If, for an offence under section three hundred and thirty-four, the oyster bed, laying or fishery is described by name or otherwise, without stating the same to be in any particular county or place. R.S.C., c. 174, ss. 118, 119, 120, 121 and 123.

Property of  
body corporate.

**620.** All property, real and personal, whereof any body corporate has, by law, the management, control or custody, shall, for the purpose of any indictment or proceeding against any other person for any offence committed on or in respect thereof, be deemed to be the property of such body corporate. R.S.C., c. 174, s. 122.

Indictment  
for stealing  
ores or minerals.

**621.** In any indictment for any offence mentioned in sections three hundred and forty-three or three hundred and seventy-five of this Act, it shall be sufficient to lay the property in Her Majesty, or in any person or corporation, in different counts in such indictment; and any variance in the latter case, between the statement in the indictment and the evidence adduced, may be amended at the trial; and if no owner is proved the indictment may be amended by laying the property in Her Majesty. R.S.C., c. 174, s. 124.



**622.** In any indictment for any offence committed in respect of any postal card, postage stamp or other stamp issued or prepared for issue by the authority of the Parliament of Canada, or of the legislature of any province of Canada, or by, or by the authority of, any corporate body for the payment of any fee, rate or duty whatsoever, the property therein may be laid in the person in whose possession, as the owner thereof, it was when the offence was committed, or in Her Majesty if it was then unissued or in the possession of any officer or agent of the Government of Canada or of the province by authority of the legislature whereof it was issued or prepared for issue. R.S.C., c. 174, s. 125.

Indictment for offences in respect to postal cards, &c.

**623.** In every case of theft or fraudulent application or disposition of any chattel, money or valuable security under sections three hundred and nineteen (c.) and three hundred and twenty-one of this Act, the property in any such chattel, money or valuable security may, in any warrant by the justice of the peace before whom the offender is charged, and in the indictment preferred against such offender, be laid in Her Majesty, or in the municipality, as the case may be. R.S.C., c. 174, s. 126.

Indictments against public servants.

**624.** When an offence is committed in respect of a post letter bag, or a post letter, or other mailable matter, chattel, money or valuable security sent by post, the property of such post letter bag, post letter, or other mailable matter, chattel, money or valuable security may, in the indictment preferred against the offender, be laid in the Postmaster-General; and it shall not be necessary to allege in the indictment, or to prove upon the trial or otherwise, that the post letter bag, post letter or other mailable matter, chattel or valuable security was of any value.

Indictments for offences respecting letter bags, &c.

2. The property of any chattel or thing used or employed in the service of the post office, or of moneys arising from duties of postage, shall, except in the cases aforesaid, be laid in Her Majesty, if the same is the property of Her Majesty, or if the loss thereof would be borne by Her Majesty, and not by any person in his private capacity.

3. In any indictment against any person employed in the post office of Canada for any offence against this Act, or against any person for an offence committed in respect of any person so employed, it shall be sufficient to allege that such offender or such other person was employed in the post office of Canada at the time of the commission of such offence, without stating further the nature or particulars of his employment. R.S.C., c. 35, s. 111.

**625.** An indictment may be preferred against any person who steals any chattel let to be used by him in or with any house or lodging, or who steals any fixture so let to be used,

Indictment for stealing by tenant or lodger.

used, in the same form as if the offender was not a tenant or lodger, and in either case the property may be laid in the owner or person letting to hire. R.S.C., c. 174, s. 127.

Joinder of counts and proceedings thereon.

**626.** Any number of counts for any offences whatever may be joined in the same indictment, and shall be distinguished in the manner shown in the form EE in schedule one hereto, or to the like effect: Provided that to a count charging murder no count charging any offence other than murder shall be joined.

2. When there are more counts than one in an indictment each count may be treated as a separate indictment.

3. If the court thinks it conducive to the ends of justice to do so, it may direct that the accused shall be tried upon any one or more of such counts separately. Such order may be made either before or in the course of the trial, and if it is made in the course of the trial the jury shall be discharged from giving a verdict on the counts on which the trial is not to proceed. The counts in the indictment which are not then tried shall be proceeded upon in all respects as if they had been found in a separate indictment.

4. Provided that, unless there be special reasons, no order shall be made preventing the trial at the same time of any number of distinct charges of theft not exceeding three, alleged to have been committed within six months from the first to the last of such offences, whether against the same person or not.

5. If one sentence is passed upon any verdict of guilty on more counts than one, the sentence shall be good if any of such counts would have justified it.

Accessories after the fact, and receivers.

**627.** Every one charged with being an accessory after the fact to any offence, or with receiving any property knowing it to have been stolen, may be indicted, whether the principal offender or other party to the offence or person by whom such property was so obtained has or has not been indicted or convicted, or is or is not amenable to justice, and such accessory may be indicted either alone as for a substantive offence or jointly with such principal or other offender or person.

2. When any property has been stolen any number of receivers at different times of such property, or of any part or parts thereof, may be charged with substantive offences in the same indictment, and may be tried together, whether the person by whom the property was so obtained is or is not indicted with them, or is or is not in custody or amenable to justice. R.S.C., c. 174, ss. 133, 136 and 138.

Indictment charging previous conviction.

**628.** In any indictment for any indictable offence, committed after a previous conviction or convictions for any indictable offence or offences or for any offence or offences (and for which a greater punishment may be inflicted on that account),

account), it shall be sufficient, after charging the subsequent offence, to state that the offender was at a certain time and place, or at certain times and places, convicted of an indictable offence, or of an offence or offences, as the case may be, and to state the substance and effect only, omitting the formal part of the indictment and conviction, or of the summary conviction, as the case may be, for the previous offence, without otherwise describing the previous offence or offences. R.S.C., c. 174, s. 139.

**629.** Every objection to any indictment for any defect apparent on the face thereof shall be taken by demurrer, or motion to quash the indictment, before the defendant has pleaded, and not afterwards, except by leave of the court or judge before whom the trial takes place, and every court before which any such objection is taken may, if it is thought necessary, cause the indictment to be forthwith amended in such particular, by some officer of the court or other person, and thereupon the trial shall proceed as if no such defect had appeared; and no motion in arrest of judgment shall be allowed for any defect in the indictment which might have been taken advantage of by demurrer, or amended under the authority of this Act. Objections to an indictment.

**630.** No person prosecuted shall be entitled as of right to traverse or postpone the trial of any indictment preferred against him in any court, or to imparl, or to have time allowed him to plead or demur to any such indictment: Provided always, that if the court before which any person is so indicted, upon the application of such person or otherwise, is of opinion that he ought to be allowed a further time to plead or demur or to prepare for his defence, or otherwise, such court may grant such further time and may adjourn the trial of such person to a future time of the sittings of the court or to the next or any subsequent session or sittings of the court, and upon such terms, as to bail or otherwise, as to the court seem meet, and may, in the case of adjournment to another session or sitting, respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent session or sittings without entering into any fresh recognizances for that purpose. R.S.C., c. 174, s. 141. Time to plead to indictment.

**631.** The following special pleas and no others may be pleaded according to the provisions hereinafter contained, that is to say, a plea of *autrefois acquit*, a plea of *autrefois convict*, a plea of pardon, and such pleas in cases of defamatory libel as are hereinafter mentioned. Special pleas.

2. All other grounds of defence may be relied on under the plea of not guilty.



3. The pleas of *autrefois acquit*, *autrefois convict*, and pardon may be pleaded together, and if pleaded shall be disposed of before the accused is called on to plead further; and if every such plea is disposed of against the accused he shall be allowed to plead not guilty.

4. In any plea of *autrefois acquit* or *autrefois convict* it shall be sufficient for the accused to state that he has been lawfully acquitted or convicted, as the case may be, of the offence charged in the count or counts to which such plea is pleaded, indicating the time and place of such acquittal, or conviction. R.S.C., c. 174, s. 146.

5. On the trial of an issue on a plea of *autrefois acquit* or *autrefois convict* to any count or counts, if it appear that the matter on which the accused was given in charge on the former trial is the same in whole or in part as that on which it is proposed to give him in charge, and that he might on the former trial, if all proper amendments had been made which might then have been made, have been convicted of all the offences of which he may be convicted on the count or counts to which such plea is pleaded, the court shall give judgment that he be discharged from such count or counts.

6. If it appear that the accused might on the former trial have been convicted of any offence of which he might be convicted on the count or counts to which such plea is pleaded, but that he may be convicted on any such count or counts of some offence or offences of which he could not have been convicted on the former trial, the court shall direct that he shall not be convicted on any such count or counts of any offence of which he might have been convicted on the former trial, but that he shall plead over as to the other offence or offences charged.

Depositions  
and judge's  
notes on for-  
mer trial.

**632.** On the trial of an issue on a plea of *autrefois acquit* or *convict* the depositions transmitted to the court on the former trial, together with the judge's and official stenographer's notes if available, and the depositions transmitted to the court on the subsequent charge, shall be admissible in evidence to prove or disprove the identity of the charges.

Second accu-  
sation.

**633.** When an indictment charges substantially the same offence as that charged in the indictment on which the accused was given in charge on a former trial, but adds a statement of intention or circumstances of aggravation tending if proved to increase the punishment, the previous acquittal or conviction shall be a bar to such subsequent indictment.

2. A previous conviction or acquittal on an indictment for murder shall be a bar to a second indictment for the same homicide charging it as manslaughter; and a previous conviction or acquittal on an indictment for manslaughter shall

.be



be a bar to a second indictment for the same homicide charging it as murder.

**634.** Every one accused of publishing a defamatory libel may plead that the defamatory matter published by him was true, and that it was for the public benefit that the matters charged should be published in the manner and at the time when they were published. Such plea may justify the defamatory matter in the sense specified, if any, in the count, or in the sense which the defamatory matter appears without any such specification; or separate pleas justifying the defamatory matter in each sense may be pleaded separately to each as if two libels had been charged in separate counts.

Plea of justification in case of libel.

2. Every such plea must be in writing, and must set forth the particular fact or facts by reason of which it was for the public good that such matters should be so published. The prosecutor may reply generally denying the truth thereof.

3. The truth of the matters charged in an alleged libel shall in no case be inquired into without such plea of justification unless the accused is put upon his trial upon any indictment or information charging him with publishing the libel knowing the same to be false, in which case evidence of the truth may be given in order to negative the allegation that the accused knew the libel to be false.

4. The accused may, in addition to such plea, plead not guilty and such pleas shall be inquired of together.

5. If, when such plea of justification is pleaded, the accused is convicted, the court may, in pronouncing sentence, consider whether his guilt is aggravated or mitigated by the plea. R.S.C., c. 174, ss. 148, 149, 150 and 151.

#### PART XLVII.

#### CORPORATIONS.

**635.** Every corporation against which a bill of indictment is found at any court having criminal jurisdiction shall appear by attorney in the court in which such indictment is found and plead or demur thereto. R.S.C., c. 174, s. 155.

Corporations may appear by attorney.

**636.** No writ of *certiorari* shall be necessary to remove any such indictment into any superior court with the view of compelling the defendant to plead thereto; nor shall it be necessary to issue any writ of *distringas*, or other process, to compel the defendant to appear and plead to such indictment. R.S.C., c. 174, s. 156.

*Certiorari*, &c., not required.

Notice to be served on corporation.

**637.** The prosecutor, when any such indictment is found against a corporation, or the clerk of the court when such indictment is founded on a presentment of the grand jury, may cause a notice thereof to be served on the mayor or chief officer of such corporation, or upon the clerk or secretary thereof, stating the nature and purport of such indictment, and that, unless such corporation appears and pleads thereto in two days after the service of such notice, a plea of not guilty will be entered thereto for the defendant by the court, and that the trial thereof will be proceeded with in like manner as if the said corporation had appeared and pleaded thereto. R.S.C., c. 174, s. 157.

Proceedings on default.

**638.** If such corporation does not appear in the court in which the indictment has been found, and plead or demur thereto within the time specified in the said notice, the judge presiding at such court may, on proof to him by affidavit of the due service of such notice, order the clerk or proper officer of the court to enter a plea of "not guilty" on behalf of such corporation, and such plea shall have the same force and effect as if such corporation had appeared by its attorney and pleaded such plea. R.S.C., c. 174, s. 158.

Trial may proceed in absence of defendant.

**639.** The court may—whether such corporation appears and pleads to the indictment, or whether a plea of "not guilty" is entered by order of the court—proceed with the trial of the indictment in the absence of the defendant in the same manner as if the corporation had appeared at the trial and defended the same; and in case of conviction, may award such judgment and take such other and subsequent proceedings to enforce the same as are applicable to convictions against corporations. R.S.C., c. 174, s. 159.

#### PART XLVIII.

#### PREFERRING INDICTMENT.

Jurisdiction of courts.

**640.** Every court of criminal jurisdiction in Canada is, subject to the provisions of Part XLII., competent to try all offences wherever committed, if the accused is found or apprehended or is in custody within the jurisdiction of such court, or if he has been committed for trial to such court or ordered to be tried before such court, or before any other court the jurisdiction of which has by lawful authority been transferred to such first mentioned court under any Act for the time being in force: Provided that nothing in this Act authorizes any court in one province of Canada to try any person for any offence committed entirely in another province, except in the following case:

2. Every proprietor, publisher, editor or other person charged with the publication in a newspaper of any defamatory

atory libel, shall be dealt with, indicted, tried and punished in the province in which he resides, or in which such newspaper is printed.

**641.** Any one who is bound over to prosecute any person, whether committed for trial or not, may prefer a bill of indictment for the charge on which the accused has been committed, or in respect of which the prosecutor is so bound over, or for any charge founded upon the facts or evidence disclosed on the depositions taken before the justice. The accused may at any time before he is given in charge to the jury apply to the court to quash any count in the indictment on the ground that it is not founded on such facts or evidence, and the court shall quash such count if satisfied that it is not so founded. And if at any time during the trial it appears to the court that any count is not so founded, and that injustice has been or is likely to be done to the accused in consequence of such count remaining in the indictment, the court may then quash such count and discharge the jury from finding any verdict upon it.

Sending bill before grand jury.

2. The Attorney-General or any one by his direction or any one with the written consent of a judge of any court of criminal jurisdiction or of the Attorney-General, may prefer a bill of indictment for any offence before the grand jury of any court specified in such consent; and any person may prefer any bill of indictment before any court of criminal jurisdiction by order of such court.

3. It shall not be necessary to state such consent or order in the indictment. An objection to an indictment for want of such consent or order must be taken by motion to quash the indictment before the accused person is given in charge.

4. Save as aforesaid no bill of indictment shall after the commencement of this Act be preferred in any province of Canada.

**642.** After the commencement of this Act no one shall be tried upon any coroner's inquisition.

Coroner's inquisition.

**64 .** It shall not be necessary for any person to take an oath in open court in order to qualify him to give evidence before any grand jury. R.S.C., c. 174, s. 173.

Oath in open court not required.

**644.** The foreman of the grand jury or any member of the grand jury who may, for the time being, act on behalf of the foreman in the examination of witnesses, may administer an oath to every person who appears before such grand jury to give evidence in support of any bill of indictment; and every such person may be sworn and examined upon oath by such grand jury touching the matters in question. R.S.C., c. 174, s. 174.

Oath may be administered by foreman.

Names of witnesses to be endorsed on bill of indictment.

**645.** The name of every witness examined, or intended to be examined, shall be endorsed on the bill of indictment; and the foreman of the grand jury, or any member of the grand jury so acting for him, shall write his initials against the name of each witness sworn by him and examined touching such bill of indictment. R.S.C., c. 174, s. 175.

Names of witnesses to be submitted to grand jury.

**646.** The name of every witness intended to be examined on any bill of indictment shall be submitted to the grand jury by the officer prosecuting on behalf of the Crown, and no others shall be examined by or before such grand jury unless upon the written order of the presiding judge. R.S.C., c. 174, s. 176.

Fees for swearing witnesses.

**647.** Nothing in this Act shall affect any fees by law payable to any officer of any court for swearing witnesses, but such fees shall be payable as if the witnesses had been sworn in open court. R.S.C., c. 174, s. 177.

Bench warrant and certificate.

**648.** When any one against whom an indictment has been duly preferred and has been found, and who is then at large, does not appear to plead to such indictment, whether he is under recognizances to appear or not—

(a.) the court before which the accused ought to have been tried may issue a warrant for his apprehension, which may be executed in any part of Canada;

(b.) the officer of the court at which the said indictment is found or (if the place or trial has been changed) the officer of the court before which the trial is to take place, shall, at any time after the time at which the accused ought to have appeared and pleaded, grant to the prosecutor, upon application made on his behalf and upon payment of twenty cents, a certificate of such indictment having been found. The certificate may be in the form GG in schedule one hereto, or to the like effect. Upon production of such certificate to any justice for the county or place in which the indictment was found, or in which the accused is or resides or is suspected to be or reside, such justice shall issue his warrant to apprehend him, and to cause him to be brought before such justice, or before any other justice for the same county or place, to be dealt with according to law. The warrant may be in the form HH in schedule one hereto, or to the like effect.

2. If it is proved upon oath before such justice that any one apprehended and brought before him on such warrant is the person charged and named in such indictment, such justice shall, without further inquiry or examination, either commit him to prison by a warrant which may be in the form II in schedule one hereto, or to the like effect, or admit him to bail as in other cases provided; but if it appears that the accused has without reasonable excuse broken his recognizance to appear he shall not in any case be bailable as of right.



3. If it is proved before the justice upon oath that any such accused person is at the time of such application and production of the said certificate as aforesaid confined in any prison for any other offence than that charged in the said indictment, such justice shall issue his warrant directed to the warden or gaoler of the prison in which such person is then confined as aforesaid, commanding him to detain him in his custody until by lawful authority he is removed therefrom. Such warrant may be in the form JJ in schedule one hereto, or to the like effect. R.S.C., c. 174, ss. 33; 34 and 35.

#### PART XLIX.

#### REMOVAL OF PRISONERS—CHANGE OF VENUE.

**649.** The Governor in Council or the Lieutenant-Governor in Council of any province may, if, from the insecurity or unfitness of any gaol of any county or district for the safe custody of prisoners, or for any other cause, he deems it expedient so to do, order any person charged with an indictable offence confined in such gaol or for whose arrest a warrant has been issued, to be removed to any other place for safe keeping or to any gaol, which place or gaol shall be named in such order, there to be detained until discharged in due course of law, or removed for the purpose of trial to the gaol of the county or district in which the trial is to take place; and a copy of such order, certified by the clerk of the Queen's Privy Council for Canada, or the clerk of the Executive Council, or by any person acting as such clerk of the Privy Council or Executive Council, shall be sufficient authority to the sheriffs and gaolers of the counties or districts respectively named in such order, to deliver over and to receive the body of any person named in such order. R.S.C., c. 174, s. 97. Removal of prisoners.

2. The Governor in Council or a Lieutenant-Governor in Council may, in any such order, direct the sheriff in whose custody the person to be removed then is, to convey the said person to the place or gaol in which he is to be confined, and in case of removal to another county or district shall direct the sheriff or gaoler of such county or district to receive the said person, and to detain him until he is discharged in due course of law, or is removed for the purpose of trial to any other county or district. R.S.C., c. 174, s. 98.

3. The Governor in Council or a Lieutenant-Governor in Council may make an order as hereinbefore provided in respect of any person under sentence of imprisonment or under sentence of death,—and, in the latter case, the sheriff to whose gaol the prisoner is removed shall obey any direction

tion given by the said order or by any subsequent order in council, for the return of such prisoner to the custody of the sheriff by whom the sentence is to be executed. R.S.C., c. 174, s. 100.

Indictment  
after removal.

**650.** If after such removal a true bill for any indictable offence is returned by any grand jury of the county or district from which any such person is removed, against any such person, the court into which such true bill is returned, may make an order for the removal of such person, from the gaol in which he is then confined, to the gaol of the county or district in which such court is sitting, for the purpose of his being tried in such county or district. R.S.C., c. 174, s. 99.

Change of  
venue.

**651.** Whenever it appears to the satisfaction of the court or judge hereinafter mentioned, that it is expedient to the ends of justice that the trial of any person charged with an indictable offence should be held in some district, county or place other than that in which the offence is supposed to have been committed, or would otherwise be triable, the court before which such person is or is liable to be indicted may, at any term or sitting thereof, and any judge who might hold or sit in such court may, at any other time, either before or after the presentation of a bill of indictment, order that the trial shall be proceeded with in some other district, county or place within the same province, named by the court or judge in such order; but such order shall be made upon such conditions as to the payment of any additional expense thereby caused to the accused, as the court or judge thinks proper to prescribe.

2. Forthwith upon the order of removal being made by the court or judge, the indictment, if any has been found against the prisoner, and all inquisitions, informations, depositions, recognizances and other documents relating to the prosecution against him, shall be transmitted by the officer having the custody thereof to the proper officer of the court at the place where the trial is to be had, and all proceedings in the case shall be had, or, if previously commenced, shall be continued in such district, county or place, as if the case had arisen or the offence had been committed therein.

3. The order of the court, or of the judge, made under this section, shall be a sufficient warrant, justification and authority, to all sheriffs, gaolers and peace officers, for the removal, disposal and reception of the prisoner, in conformity with the terms of such order; and the sheriff may appoint and empower any constable to convey the prisoner to the gaol in the district, county or place in which the trial is ordered to be had.

4. Every recognizance entered into for the prosecution of any person, and every recognizance, as well of any witness to give evidence, as of any person for any offence, shall, in case any such order, as provided by this section, is made, be obligatory

gatory on each of the persons bound by such recognizance as to all things therein mentioned with reference to the said trial, at the place where such trial is so ordered to be had, in like manner as if such recognizance had been originally entered into for the doing of such things at such last mentioned place: Provided that notice in writing shall be given either personally or by leaving the same at the place of residence of the persons bound by such recognizance, as therein described, to appear before the court, at the place where such trial is ordered to be had. R.S.C., c. 174, s. 102.

## PART L.

## ARRAIGNMENT.

**652.** If any person against whom any indictment is found is at the time confined for some other cause in the prison belonging to the jurisdiction of the court by which he is to be tried, the court may by order in writing, without a writ of *habeas corpus*, direct the warden or gaoler of the prison or sheriff or other person having the custody of the prisoner to bring up the body of such person as often as may be required for the purposes of the trial, and such warden, gaoler, sheriff or other person shall obey such order. R.S.C., c. 174, s. 101.

Bringing prisoner up for arraignment.

**653.** Every accused person shall be entitled at the time of his trial to inspect, without fee or reward, all depositions, or copies thereof, taken against him and returned into the court before which such trial is had, and to have the indictment on which he is to be tried read over to him if he so requires. R.S.C., c. 174, s. 180.

Right of accused to inspect deposition and hear indictment.

**654.** Every person indicted for any offence shall, before being arraigned on the indictment, be entitled to a copy thereof on paying the clerk five cents per folio of one hundred words for the same, if the court is of opinion that the same can be made without delay to the trial, but not otherwise. R.S.C., c. 174, s. 181.

Copy of indictment.

**655.** Every person indicted shall be entitled to a copy of the depositions returned into court on payment of five cents per folio of one hundred words for the same, provided, if the same are not demanded before the opening of the assizes, term, sittings or sessions, the court is of opinion that the same can be made without delay to the trial, but not otherwise; but the court may, if it sees fit, postpone the trial on account of such copy of the depositions not having been previously had by the person charged. R.S.C., c. 174, s. 182.

Copy of deposition.

Pleas in  
abatement  
abolished.

**656.** No plea in abatement shall be allowed after the commencement of this Act. Any objection to the constitution of the grand jury may be taken by motion to the court, and the indictment shall be quashed if the court is of opinion both that such objection is well founded and that the accused has suffered or may suffer prejudice thereby, but not otherwise.

Plea; refusal  
to plead.

**657.** When the accused is called upon to plead he may plead either guilty or not guilty, or such special plea as is hereinbefore provided for.

2. If the accused wilfully refuses to plead, or will not answer directly, the court may order the proper officer to enter a plea of not guilty. R.S.C., c. 174, s. 145.

Special provi-  
sions in the  
case of  
treason.

**658.** When any one is indicted for treason, or for being accessory after the fact to treason, the following documents shall be delivered to him after the indictment has been found, and at least ten days before his arraignment; that is to say:

(a.) a copy of the indictment;

(b.) a list of the witnesses to be produced on the trial to prove the indictment; and

(c.) a copy of the panel of the jurors who are to try him returned by the sheriff.

2. The list of the witnesses and the copy of the panel of the jurors must mention the names, occupations, and places of abode of the said witnesses and jurors.

3. The documents aforesaid must all be given to the accused at the same time and in the presence of two witnesses.

4. This section shall not apply to cases of treason by killing Her Majesty, or to cases where the overt act alleged is any attempt to injure her person in any manner whatever, or to the offence of being accessory after the fact to any such treason.

## PART LI.

## TRIAL.

Right to full  
defence.

**659.** Every person tried for any indictable offence shall be admitted, after the close of the case for the prosecution, to make full answer and defence thereto by counsel learned in the law. R.S.C., c. 174, s. 178.

Presence of  
the accused at  
the trial.

**660.** Every accused person shall be entitled to be present in court during the whole of his trial unless he misconducts himself by so interrupting the proceedings as to render their continuance in his presence impracticable.

2. The court may permit the accused to be out of court during the whole or any part of any trial on such terms as it thinks proper.



**661.** If an accused person, or any one of several accused persons being tried together, is defended by counsel, such counsel shall, at the end of the case for the prosecution, declare whether he intends to adduce evidence or not on behalf of the accused person for whom he appears; and if he does not thereupon announce his intention to adduce evidence, the counsel for the prosecution may address the jury by way of summing up. Prosecutor's right to sum up.

2. Upon every trial for an indictable offence, whether the accused person is defended by counsel or not, he or his counsel shall be allowed, if he thinks fit, to open his case, and after the conclusion of such opening to examine such witnesses as he thinks fit, and when all the evidence is concluded to sum up the evidence. If no witnesses are examined for the defence the counsel for the accused shall have the privilege of addressing the jury last, otherwise such right shall belong to the counsel for the prosecution: Provided, that the right of reply shall be always allowed to the Attorney-General or Solicitor-General, or to any counsel acting on behalf of either of them. R.S.C., c. 174, s. 179.

**662.** Every person qualified and summoned as a grand or petit juror, according to the laws in force for the time being in any province of Canada, shall be duly qualified to serve as such juror in criminal cases in that province. R. S. C., c. 174, s. 160. Qualification of juror.

**663.** No alien shall be entitled to be tried by a jury *de medietate lingue*, but shall be tried as if he was a natural born subject. R.S.C., c. 174, s. 161. Jury *de medietate lingue* abolished.

**664.** In those districts in the province of Quebec in which the sheriff is required by law to return a panel of petit jurors composed one half of persons speaking the English language, and one half of persons speaking the French language, he shall in his return specify separately those jurors whom he returns as speaking the English language, and those whom he returns as speaking the French language respectively; and the names of the jurors so summoned shall be called alternately from such lists. R.S.C., c. 174, s. 166. Mixed juries in the province of Quebec.

**665.** Whenever any person who is arraigned before the Court of Queen's Bench for Manitoba demands a jury composed, for the one half at least, of persons skilled in the language of the defence, if such language is either English or French, he shall be tried by a jury composed for the one half at least of the persons whose names stand first in succession upon the general panel and who, on appearing and not being lawfully challenged, are found, in the judgment of the court, to be skilled in the language of the defence. Mixed juries in Manitoba.

2. Whenever, from the number of challenges or any other cause, there is in any such case a deficiency of persons skilled in the language of the defence the court shall fix another day for the trial of such case, and the sheriff shall supply the deficiency by summoning, for the day so fixed, such additional number of jurors skilled in the language of the defence as the court orders, and as are found inscribed next in succession on the list of petit jurors. R.S.C., c. 174, s. 167.

Challenging  
the array.

**666.** Either the accused or the prosecutor may challenge the array on the ground of partiality, fraud, or wilful misconduct on the part of the sheriff or his deputies by whom the panel was returned, but on no other ground. The objection shall be made in writing, and shall state that the person returning the panel was partial, or was fraudulent, or wilfully misconducted himself, as the case may be. Such objection may be in the form KK in schedule one hereto, or to the like effect.

2. If partiality, fraud or wilful misconduct, as the case may be, is denied the court shall appoint any two indifferent persons to try whether the alleged ground of challenge is true or not. If the triers find that the alleged ground of challenge is true in fact, or if the party who has not challenged the array admits that the ground of challenge is true in fact, the court shall direct a new panel to be returned.

Calling the  
panel.

**667.** If the array is not challenged, or if the triers find against the challenge, the officer of the court shall proceed to call the names of the jurors in the following manner: The name of each juror on the panel returned, with his number on the panel and the place of his abode, shall be written on a distinct piece of card, such cards being all as nearly as may be of an equal size. The cards shall be delivered to the officer of the court by the sheriff or other officer returning the panel, and shall, under the direction and care of the officer of the court, be put together in a box to be provided for that purpose, and shall be shaken together.

2. The officer of the court shall in open court draw out the said cards, one after another, and shall call out the name and number upon each such card as it is drawn, until such a number of persons have answered to their names as in the opinion of the court will probably be sufficient to provide a full jury after allowing for challenges of jurors and directions to stand by.

3. The officer of the court shall then proceed to swear the jury, each juror being called to swear in the order in which his name is so drawn, until, after subtracting all challenges allowed and jurors directed to stand by, twelve jurors are sworn. If the number so answering is not sufficient to provide a full jury such officer shall proceed to draw further names from the box, and call the same in manner aforesaid,  
until

until, after challenges allowed and directions to stand by, twelve jurors are sworn.

4. If by challenges and directions to stand by the panel is exhausted without leaving a sufficient number to form a jury those who have been directed to stand by shall be again called in the order in which they were drawn, and shall be sworn, unless challenged by the accused, or unless the prosecutor challenges them and shows cause why they should not be sworn: Provided that if before any such juror is sworn other jurymen in the panel become available the prosecutor may require the names of such jurymen to be put into and drawn from the box in the manner hereinbefore prescribed, and such jurors shall be sworn, challenged, or ordered to stand by, as the case may be, before the jurors originally ordered to stand by are again called.

5. The twelve men who in manner aforesaid are ultimately sworn shall be the jury to try the issues on the indictment, and the names of the men so drawn and sworn shall be kept apart by themselves until such jury give in their verdict or until they are discharged; and then the names shall be returned to the box, there to be kept with the other names remaining at that time undrawn, and so *toties quoties* as long as any issue remains to be tried.

6. Provided that when the prosecutor and accused do not object thereto the court may try any issue with the same jury that has previously tried or been drawn to try any other issue, without their names being returned to the box and redrawn, or if the parties or either of them object to some one or more of the jurors forming such jury, or the court excuses any one or more of them, then the court may order such persons to withdraw, and may direct the requisite number of names to make up a complete jury to be drawn, and the persons whose names are so drawn shall be sworn.

7. Provided also, that an omission to follow the directions in this section shall not affect the validity of the proceedings.

**668.** Every one indicted for treason or any offence punishable with death is entitled to challenge twenty jurors peremptorily. Challenges and directions to stand by.

2. Every one indicted for any offence other than treason, or an offence punishable with death, for which he may be sentenced to imprisonment for more than five years, is entitled to challenge twelve jurors peremptorily.

3. Every one indicted for any other offence is entitled to challenge four jurors peremptorily.

4. Every prosecutor and every accused person is entitled to any number of challenges on any of the following grounds; that is to say:

(a.) that any juror's name does not appear in the panel: Provided that no misnomer or misdescription shall be a ground of challenge if it appears to the court that the description

scription given in the panel sufficiently designates the persons referred to; or

(b.) that any juror is not indifferent between the Queen and the accused; or

(c.) that any juror has been convicted of any offence for which he was sentenced to death or to any term of imprisonment with hard labour or exceeding twelve months; or

(d.) that any juror is an alien.

5. No other ground of challenge than those above-mentioned shall be allowed.

6. If any such challenge is made the court may in its discretion require the party challenging to put his challenge in writing. The challenge may be in the form LL in schedule one hereto, or to the like effect. The other party may deny that the ground of challenge is true.

7. If the ground of challenge is that the jurors' names do not appear in the panel, the issue shall be tried by the court on the *voir dire* by the inspection of the panel, and such other evidence as the court thinks fit to receive.

8. If the ground of challenge be other than as last aforesaid the two jurors last sworn, or if no jurors have then been sworn then two persons present whom the court may appoint for that purpose shall be sworn to try whether the juror objected to stands indifferent between the Queen and the accused, or has been convicted, or is an alien, as aforesaid, as the case may be. If the court or the triers find against the challenge the juror shall be sworn. If they find for the challenge he shall not be sworn. If after what the court considers a reasonable time the triers are unable to agree the court may discharge them from giving a verdict, and may direct other persons to be sworn in their place.

9. The Crown shall have power to challenge four jurors peremptorily, and may direct any number of jurors not peremptorily challenged by the accused to stand by until all the jurors have been called who are available for the purpose of trying that indictment.

10. The accused may be called upon to declare whether he challenges any jurors peremptorily or otherwise, before the prosecutor is called upon to declare whether he requires such juror to stand by, or challenges him either for cause or peremptorily. R.S.C., c. 174, ss. 163 and 164.

Right to cause jurors to stand aside in case of libel.

**669.** The right of the Crown to cause any juror to stand aside until the panel has been gone through shall not be exercised on the trial of any indictment or information by a private prosecutor for the publication of a defamatory libel. R.S.C., c. 174, s. 165.

Peremptory challenges in case of mixed jury.

**670.** Whenever a person accused of an offence for which he would be entitled to twenty or twelve peremptory challenges as hereinbefore provided elects to be tried by a jury composed one half of persons skilled in the language of the defence



defence under sections six hundred and sixty-four or six hundred and sixty-five, the number of peremptory challenges to which he is entitled shall be divided, so that he shall only have the right to challenge one half of such number from among the English speaking jurors, and one half from among the French speaking jurors. R.S.C. c. 174, ss. 166 and 167.

**671.** If several accused persons are jointly indicted and it is proposed to try them together, they or any of them may either join in their challenges, in which case the persons who so join shall have only as many challenges as a single person would be entitled to, or each may make his challenges in the same manner as if he were intended to be tried alone.

*Accused persons joining and severing in their challenges.*

**672.** Whenever after the proceedings hereinbefore provided the panel has been exhausted, and a complete jury cannot be had by reason thereof, then, upon request made on behalf of the Crown, the court may order the sheriff or other proper officer forthwith to summon such number of persons whether qualified jurors or not as the court deems necessary and directs in order to make a full jury; and such jurors may, if necessary, be summoned by word of mouth.

*Ordering a tales.*

2. The names of the persons so summoned shall be added to the general panel, for the purposes of the trial, and the same proceedings shall be taken as to calling and challenging such persons and as to directing them to stand by as are hereinbefore provided for with respect to the persons named in the original panel. R.S.C., c. 174, s. 168.

**673.** The trial shall proceed continuously, subject to the power of the court to adjourn it. Upon every such adjournment the court may in all cases, if it thinks fit, direct that during the adjournment the jury shall be kept together, and proper provision made for preventing the jury from holding communication with any one on the subject of the trial. Such direction shall be given in all cases in which the accused may upon conviction be sentenced to death. In other cases, if no such direction is given, the jury shall be permitted to separate.

*Jurors shall not be allowed to separate.*

2. No formal adjournment of the court shall hereafter be required and no entry thereof in the Crown book shall be necessary.

**674.** Jurors, after having been sworn, shall be allowed at any time before giving their verdict the use of fire and light when out of court, and shall also be allowed reasonable refreshment. 53 V., c. 57, s. 21.

*Jurors may have fire and refreshments.*

**675.** Nothing in this Act shall alter, abridge or affect any power or authority which any court or judge has when this

*Saving of power of court.*

Act

Act takes effect, or any practice or form in regard to trials by jury, jury process, juries or jurors, except in cases where such power or authority is expressly altered by or is inconsistent with the provisions of this Act. R.S.C., c. 174, s. 170.

Proceedings  
when previous  
offence  
charged.

**676.** The proceedings upon any indictment for committing any offence after a previous conviction or convictions, shall be as follows, that is to say : the offender shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he pleads not guilty, or if the court orders a plea of not guilty to be entered on his behalf, the jury shall be charged, in the first instance, to inquire concerning such subsequent offence only ; and if the jury finds him guilty, or if, on arraignment he pleads guilty, he shall then, and not before, be asked whether he was so previously convicted as alleged in the indictment ; and if he answers that he was so previously convicted, the court may proceed to sentence him accordingly, but if he denies that he was so previously convicted, or stands mute of malice, or will not answer directly to such question, the jury shall then be charged to inquire concerning such previous conviction or convictions, and in such case it shall not be necessary to swear the jury again, but the oath already taken by them shall, for all purposes, be deemed to extend to such last mentioned inquiry : Provided. that if upon the trial of any person for any such subsequent offence, such person gives evidence of his good character, the prosecutor may, in answer thereto, give evidence of the conviction of such person for the previous offence or offences, before such verdict of guilty is returned, and the jury shall inquire concerning such previous conviction or convictions at the same time that they inquire concerning such subsequent offence.

Attendance of  
witnesses.

**677.** Every witness duly subpoenaed to attend and give evidence at any criminal trial before any court of criminal jurisdiction shall be bound to attend and remain in attendance throughout the trial. R.S.C., c. 174, s. 210.

Compelling  
attendance of  
witness.

**678.** Upon proof to the satisfaction of the judge of the service of the subpoena upon any witness who fails to attend or remain in attendance, or upon its appearing that any witness at the preliminary examination has entered into a recognizance to appear at the trial, and has failed so to appear, and that the presence of such witness is material to the ends of justice, the judge may, by his warrant, cause such witness to be apprehended and forthwith brought before him to give evidence and to answer for his disregard of the subpoena ; and such witness may be detained on such warrant before the judge or in the common gaol with a view to secure his presence as a witness, or, in the discretion of the judge, he may be released on a recognizance, with or without sureties,

sureties, conditioned for his appearance to give evidence and to answer for his default in not attending or not remaining in attendance; and the judge may, in a summary manner, examine into and dispose of the charge against such witness, who, if he is found guilty thereof, shall be liable to a fine not exceeding one hundred dollars, or to imprisonment, with or without hard labour, for a term not exceeding ninety days, or to both. R.S.C., c. 174, s. 211.

**679.** If any witness in any criminal case, cognizable by indictment in any court of criminal jurisdiction at any term, sessions or sittings of any court in any part of Canada, resides in any part thereof, not within the ordinary jurisdiction of the court before which such criminal case is cognizable, such court may issue a writ of subpœna, directed to such witness, in like manner as if such witness was resident within the jurisdiction of the court; and if such witness does not obey such writ of subpœna the court issuing the same may proceed against such witness for contempt or otherwise, or bind over such witness to appear at such days and times as are necessary, and upon default being made in such appearance may cause the recognizances of such witness to be estreated, and the amount thereof to be sued for and recovered by process of law, in like manner as if such witness was resident within the jurisdiction of the court. R.S.C., c. 174, s. 212.

Witness in Canada but beyond jurisdiction of court.

**680.** When the attendance of any person confined in any prison in Canada, or upon the limits of any gaol, is required in any court of criminal jurisdiction in any case cognizable therein by indictment, the court before whom such prisoner is required to attend may, or any judge of such court, or of any superior court or county court may, before or during any such term or sittings at which the attendance of such person is required, make an order upon the warden or gaoler of the prison, or upon the sheriff or other person having the custody of such prisoner, to deliver such prisoner to the person named in such order to receive him; and such person shall, at the time prescribed in such order, convey such prisoner to the place at which such person is required to attend, there to receive and obey such further order as to the said court seems meet. R.S.C., c. 174, s. 213.

Procuring attendance of prisoner as witness.

**681.** Whenever it is made to appear at the instance of the Crown, or of the prisoner or defendant, to the satisfaction of a judge of a superior court, or a judge of a county court having criminal jurisdiction, that any person who is dangerously ill, and who, in the opinion of some licensed medical practitioner, is not likely to recover from such illness, is able and willing to give material information relating to any indictable offence, or relating to any person accused of any such offence, such judge may, by order under his hand appoint

Evidence of person dangerously ill may be taken under commission.

appoint a commissioner to take in writing the statement on oath or affirmation of such person.

2. Such commissioner shall take such statement and shall subscribe the same and add thereto the names of the persons, if any, present at the taking thereof, and if the deposition relates to any indictable offence for which any accused person is already committed or bailed to appear for trial shall transmit the same, with the said addition, to the proper officer of the court at which such accused person is to be tried; and in every other case he shall transmit the same to the clerk of the peace of the county, division or city in which he has taken the same, or to such other officer as has charge of the records and proceedings of a superior court of criminal jurisdiction in such county, division or city, and such clerk of the peace or other officer shall preserve the same and file it of record, and upon order of the court or of a judge transmit the same to the proper officer of the court where the same shall be required to be used as evidence. R.S.C., c. 174, s. 220.

Presence of  
prisoner when  
such evidence  
is taken.

**682.** Whenever a prisoner in actual custody is served with, or receives, notice of an intention to take the statement mentioned in the last preceding section the judge who has appointed the commissioner may, by an order in writing, direct the officer or other person having the custody of the prisoner to convey him to the place mentioned in the said notice for the purpose of being present at the taking of the statement; and such officer or other person shall convey the prisoner accordingly, and the expenses of such conveyance shall be paid out of the funds applicable to the other expenses of the prison from which the prisoner has been conveyed. R.S.C., c. 174, s. 221.

Evidence may  
be taken out  
of Canada  
under com-  
mission.

**683.** Whenever it is made to appear, at the instance of the Crown, or of the prisoner or defendant, to the satisfaction of the judge of any superior court, or the judge of a county court having criminal jurisdiction, that any person who resides out of Canada is able to give material information relating to any indictable offence for which a prosecution is pending, or relating to any person accused of such offence, such judge may, by order under his hand, appoint a commissioner or commissioners to take the evidence, upon oath, of such person.

2. Until otherwise provided by rules of court the practice and procedure in connection with the appointment of commissioners under this section, the taking of depositions by such commissioners, and the certifying and return thereof, and the use of such depositions as evidence at the trial, shall be, as nearly as practicable, the same as those which prevail in the respective courts in connection with the like matters in civil causes. 53 V., c. 37, s. 23.



**684.** No person accused of an offence under any of the hereunder mentioned sections shall be convicted upon the evidence of one witness, unless such witness is corroborated in some material particular by evidence implicating the accused :

When evidence of one witness must be corroborated.

- (a.) Treason, Part IV., section sixty-five ;
- (b ) Perjury, Part X., section one hundred and forty-six ;
- (c.) Offences under Part XII., sections one hundred and eighty-one to one hundred and ninety inclusive ;
- (d.) Procuring feigned marriage, Part XXII., section two hundred and seventy-seven ;
- (e.) Forgery, Part XXXI., section four hundred and twenty-three.

**685.** Where, upon the hearing or trial of any charge for carnally knowing or attempting to carnally know a girl under fourteen or of any charge under section two hundred and fifty-nine for indecent assault, the girl in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not, in the opinion of the court or justices, understand the nature of an oath, the evidence of such girl or other child of tender years may be received though not given upon oath if, in the opinion of the court or justices, as the case may be, such girl or other child of tender years is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

Evidence not under oath of child in certain cases.

2. But no person shall be liable to be convicted of the offence, unless the testimony admitted by virtue of this section, and given on behalf of the prosecution, is corroborated by some other material evidence in support thereof implicating the accused.

3. Any witness whose evidence is admitted under this section is liable to indictment and punishment for perjury in all respects as if he or she had been sworn. 53 V., c. 37, s. 13.

**686.** If the evidence of a sick person has been taken under commission as provided in section six hundred and eighty-one, and upon the trial of any offender for any offence to which the same relates, the person who made the statement is proved to be dead, or if it is proved that there is no reasonable probability that such person will ever be able to attend at the trial to give evidence, such statement may, upon the production of the judge's order appointing such commissioner, be read in evidence, either for or against the accused, without further proof thereof,—if the same purports to be signed by the commissioner by or before whom it purports to have been taken, and if it is proved to the satisfaction of the court that reasonable notice of the intention to take such statement was served upon the person (whether prosecutor or accused) against whom it is proposed

Deposition of sick witness may be read in evidence.

posed to be read in evidence, and that such person or his counsel or solicitor had, or might have had, if he had chosen to be present, full opportunity of cross-examining the person who made the same. R.S.C., c. 174, s. 220.

Depositions on preliminary inquiry may be read in evidence.

**687.** If upon the trial of any accused person it is proved upon the oath or affirmation of any credible witness that any person whose deposition has been taken by a justice in the preliminary or other investigation of any charge is dead, or so ill as not to be able to travel, or is absent from Canada, and if it is also proved that such deposition was taken in the presence of the person accused, and that he, his counsel or solicitor, had a full opportunity of cross-examining the witness, then if the deposition purports to be signed by the justice by or before whom the same purports to have been taken it shall be read as evidence in the prosecution without further proof thereof, unless it is proved that such deposition was not in fact signed by the justice purporting to have signed the same. R.S.C., c. 174, s. 222.

Depositions may be used on trial for other offences.

**688.** Depositions taken in the preliminary or other investigation of any charge against any person may be read as evidence in the prosecution of such person for any other offence, upon the like proof and in the same manner, in all respects, as they may, according to law, be read in the prosecution of the offence with which such person was charged when such depositions were taken. R.S.C., c. 174, s. 224.

Evidence of statement by accused.

**689.** The statement made by the accused person before the justice may, if necessary, upon the trial of such person, be given in evidence against him without further proof thereof, unless it is proved that the justice purporting to have signed the same did not in fact sign the same. R.S.C., c. 174, s. 223.

Admission may be taken on trial.

**690.** Any accused person on his trial for any indictable offence, or his counsel or solicitor, may admit any fact alleged against the accused so as to dispense with proof thereof.

Certificate of trial at which perjury was committed.

**691.** A certificate containing the substance and effect only, omitting the formal part, of the indictment and trial for any offence, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court whereat the indictment was tried, or among which such indictment has been filed, or by the deputy of such clerk or other officer, shall, upon the trial of an indictment for perjury or subornation of perjury, be sufficient evidence of the trial of such indictment without proof of the signature or official character of the person appearing to have signed the same. R.S.C., c. 174, s. 225.

Evidence of coin being false or counterfeit.

**692.** When, upon the trial of any person, it becomes necessary to prove that any coin produced in evidence against such person is false or counterfeit, it shall not be necessary  
to

to prove the same to be false and counterfeit by the evidence of any moneyer or other officer of Her Majesty's mint, or other person employed in producing the lawful coin in Her Majesty's dominions or elsewhere, whether the coin counterfeited is current coin, or the coin of any foreign prince, state or country, not current in Canada, but it shall be sufficient to prove the same to be false or counterfeit by the evidence of any other credible witness. R.S.C., c. 174, s. 229.

**693.** On the trial of any person charged with the offences mentioned in section four hundred and eighty, any letter, circular, writing or paper offering or purporting to offer for sale, loan, gift or distribution, or giving or purporting to give information, directly or indirectly, where, how, of whom or by what means any counterfeit token of value may be obtained or had, or concerning any similar scheme or device to defraud the public, shall be *prima facie* evidence of the fraudulent character of such scheme or device. Evidence on proceedings for advertising counterfeit money.

**694.** A certificate containing the substance and effect only, omitting the formal part, of any previous indictment and conviction for any indictable offence, or a copy of any summary conviction, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court before which the offender was first convicted, or to which such summary conviction was returned, or by the deputy of such clerk or officer, shall, upon proof of the identity of the person of the offender, be sufficient evidence of such conviction without proof of the signature or official character of the person appearing to have signed the same. R.S.C., c. 174, s. 230. Proof of previous conviction.

**695.** A witness may be questioned as to whether he has been convicted of any offence, and upon being so questioned, if he either denies the fact or refuses to answer, the opposite party may prove such conviction; and a certificate, as provided in the next preceding section, shall, upon proof of the identity of the witness as such convict, be sufficient evidence of his conviction, without proof of the signature or the official character of the person appearing to have signed the certificate. R.S.C., c. 174, s. 231. Proof of previous conviction of witness.

**696.** It shall not be necessary to prove by the attesting witness any instrument to the validity of which attestation is not requisite; and such instrument may be proved by admission or otherwise as if there had been no attesting witness thereto. R.S.C., c. 174, s. 232. Proof of attested instrument.

**697.** The trial of any woman charged with the murder of any issue of her body, male or female, which being born alive would, by law, be bastard, shall proceed and be governed by such and the like rules of evidence and presumption as are Evidence at trial for child murder.



by law used and allowed to take place in respect to other trials for murder. R.S.C., c. 174, s. 227.

Comparison of  
disputed  
writing with  
genuine.

\*

**698.** Comparison of a disputed writing with any writing proved to the satisfaction of the court to be genuine shall be permitted to be made by witnesses ; and such writings, and the evidence of witnesses respecting the same, may be submitted to the court and jury as evidence of the genuineness or otherwise of the writing in dispute. R.S.C., c. 174, s. 233.

Party dis-  
crediting his  
own witness.

**699.** A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but if the witness, in the opinion of the court, proves adverse, such party may contradict him by other evidence, or, by leave of the court, may prove that the witness made at other times a statement inconsistent with his present testimony ; but before such last mentioned proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and he shall be asked whether or not he did make such statement. R.S.C., c. 174, s. 234.

Evidence of  
former written  
statements by  
witness.

**700.** Upon any trial a witness may be cross-examined as to previous statements made by him in writing, or reduced to writing, relative to the subject-matter of the case, without such writing being shown to him ; but if it is intended to contradict the witness by the writing his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him ; and the judge, at any time during the trial, may require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he thinks fit : Provided that a deposition of the witness, purporting to have been taken before a justice on the investigation of the charge and to be signed by the witness and the justice, returned to and produced from the custody of the proper officer, shall be presumed *prima facie* to have been signed by the witness. R.S.C., c. 174, s. 235.

Proof of con-  
tradictory  
statements by  
witness.

**701.** If a witness, upon cross-examination as to a former statement made by him relative to the subject-matter of the case and inconsistent with his present testimony, does not distinctly admit that he did make such statement, proof may be given that he did in fact make it ; but before such proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness and he shall be asked whether or not he did make such statement. R.S.C., c. 174, s. 236.

Evidence of  
place being a  
common  
gaming-house.

**702.** When any cards, dice, balls, counters, tables or other instruments of gaming used in playing any unlawful game are found in any house, room or place suspected to be used

as



as a common gaming-house, and entered under a warrant or order issued under this Act, or about the person of any of those who are found therein, it shall be *primâ facie* evidence, on the trial of a prosecution under section one hundred and ninety-eight, that such house, room or place is used as a common gaming-house, and that the persons found in the room or place where such tables or instruments of gaming are found were playing therein although no play was actually going on in the presence of the chief constable, deputy chief constable or other officer entering the same under a warrant or order issued under this Act, or in the presence of those persons by whom he is accompanied as aforesaid. R.S.C., c. 158, s. 4.

**703.** It shall be *primâ facie* evidence in any prosecution for keeping a common gaming-house under section one hundred and ninety-eight of this Act that a house, room or place is used as a common gaming-house, and that the persons found therein were unlawfully playing therein—

Other evidence that place is a common gaming-house.

(a.) if any constable or officer authorized to enter any house room or place, is wilfully prevented from, or obstructed or delayed in entering the same or any part thereof; or

(b.) if any such house, room or place is found fitted or provided with any means or contrivance for unlawful gaming, or with any means or contrivance for concealing, removing or destroying any instruments of gaming. R.S.C., c. 158, s. 8.

**704.** Whenever, on the trial of a person charged with making an agreement for the sale or purchase of shares, goods, wares or merchandise in the manner set forth in section two hundred and one, it is established that the person so charged has made or signed any such contract or agreement of sale or purchase, or has acted, aided or abetted in the making or signing thereof, the burden of proof of the *bonâ fide* intention to acquire or to sell such goods, wares or merchandise, or to deliver or to receive delivery thereof, as the case may be, shall rest upon the person so charged.

Evidence in case of gaming in stocks, &c.

**705.** In any criminal proceeding commenced or prosecuted under section two hundred and eighty-nine for printing any extract from, or abstract of, any report published by, or under the authority of, the Senate, House of Commons, or any Legislative Council, Legislative Assembly or House of Assembly, or any paper, votes or proceedings, such report, paper, votes or proceedings may be given in evidence, and it may be shown that such extract or abstract was published *bonâ fide* and without malice, and if such is the opinion of the jury a verdict of not guilty shall be entered for the defendant. R.S.C., c. 163, s. 8.

Evidence in certain cases of libel.

**706.** In the case of any indictment under section two hundred and seventy-eight (b), (c) and (d), no averment or proof of

Evidence in case of polygamy, &c.

of the method in which the sexual relationship charged was entered into, agreed to, or consented to, shall be necessary in any such indictment, or upon the trial of the person thereby charged; nor shall it be necessary upon such trial to prove carnal connection had or intended to be had between the persons implicated. 53 V., c. 37, s. 11.

Evidence of stealing ores or minerals.

**707.** In any prosecution, proceeding or trial for stealing ores or minerals the possession, contrary to the provisions of any law in that behalf, or any smelted gold or silver, or any gold-bearing quartz, or any unsmelted or otherwise unmanufactured gold or silver, by any operative, workman or labourer actively engaged in or on any mine, shall be *prima facie* evidence that the same has been stolen by him. R.S.C., c. 164, s. 30.

Evidence of stealing timber.

**708.** In any prosecution, proceeding or trial for any offence under section three hundred and thirty-eight a timber mark, duly registered under the provisions of the *Act respecting the Marking of Timber*, on any timber, mast, spar, saw-log or other description of lumber, shall be *prima facie* evidence that the same is the property of the registered owner of such timber mark; and possession by the offender, or by others in his employ or on his behalf, of any such timber, mast, spar, saw-log or other description of lumber so marked, shall, in all cases, throw upon the offender the burden of proving that such timber, mast, spar, saw-log or other description of lumber came lawfully into his possession, or into the possession of such others in his employ or on his behalf. R.S.C., c. 174, s. 228.

Evidence in cases relating to public stores.

**709.** In any prosecution, proceeding or trial under sections three hundred and eighty-five to three hundred and eighty-nine inclusive for offences relating to public stores proof that any soldier, seaman or marine was actually doing duty in Her Majesty's service shall be *prima facie* evidence that his enlistment, entry or enrolment has been regular.

2: If the person charged with the offence relating to public stores mentioned in article three hundred and eighty-seven was, at the time at which the offence is charged to have been committed, in Her Majesty's service or employment, or a dealer in marine stores, or a dealer in old metals, knowledge on his part that the stores to which the charge relates bore the marks described in section three hundred and eighty-four shall be presumed until the contrary is shown. 50-51 V., c. 45, s. 13.

Evidence in case of fraudulent marks on merchandise.

**710.** In any prosecution, proceeding or trial for any offence under Part XXXIII. relating to fraudulent marks on merchandise, if the offence relates to imported goods evidence of the port of shipment shall be *prima facie* evidence of the place or country in which the goods were made or produced. 51 V., c. 41, s. 13.

2. Provided that in any prosecution for forging a trade mark the burden of proof of the assent of the proprietor shall lie on the defendant.

**711.** When the complete commission of the offence charged is not proved but the evidence establishes an attempt to commit the offence, the accused may be convicted of such attempt and punished accordingly. R.S.C., c. 174, s. 183. Full offence charged, attempt proved.

**712.** When an attempt to commit an offence is charged but the evidence establishes the commission of the full offence, the accused shall not be entitled to be acquitted, but the jury may convict him of the attempt, unless the court before which such trial is had thinks fit, in its discretion, to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for the complete offence: Attempt charged, full offence proved.

2. Provided that after a conviction for such attempt the accused shall not be liable to be tried again for the offence which he was charged with attempting to commit. R.S.C., c. 174, s. 184.

**713.** Every count shall be deemed divisible; and if the commission of the offence charged, as described in the enactment creating the offence or as charged in the count, includes the commission of any other offence the person accused may be convicted of any offence so included which is proved, although the whole offence charged is not proved; or he may be convicted of an attempt to commit any offence so included: Offence charged, part only proved.

2. Provided, that on a count charging murder, if the evidence proves manslaughter but does not prove murder the jury may find the accused not guilty of murder but guilty of manslaughter, but shall not on that count find the accused guilty of any other offence.

**714.** If any person tried for the murder of any child is acquitted thereof the jury by whose verdict such person is acquitted may find, in case it so appears in evidence, that the child had recently been born, and that such person did, by some secret disposition of such child or of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the court may pass such sentence as if such person had been convicted upon an indictment for the concealment of birth. R.S.C., c. 174, s. 188. On indictment for murder conviction may be of concealment of birth.

**715.** If, upon the trial of two or more persons indicted for jointly receiving any property, it is proved that one or more of such persons separately received any part or parts of such property, the jury may convict, upon such indictment. Trial of joint receivers.



ment, such of the said persons as are proved to have received any part or parts of such property. R.S.C., c. 174, s. 200.

Proceedings  
against re-  
ceivers.

**716.** When proceedings are taken against any person for having received goods knowing them to be stolen, or for having in his possession stolen property, evidence may be given, at any stage of the proceedings, that there was found in the possession of such person other property stolen within the preceding period of twelve months, and such evidence may be taken into consideration for the purpose of proving that such person knew the property which forms the subject of the proceedings taken against him to be stolen: Provided, that not less than three days' notice in writing has been given to the person accused that proof is intended to be given of such other property, stolen within the preceding period of twelve months, having been found in his possession; and such notice shall specify the nature or description of such other property, and the person from whom the same was stolen. R.S.C., c. 174, s. 203.

The same  
after previous  
conviction.

**717.** When proceedings are taken against any person for having received goods knowing them to be stolen, or for having in his possession stolen property, and evidence has been given that the stolen property has been found in his possession, then if such person has, within five years immediately preceding, been convicted of any offence involving fraud or dishonesty, evidence of such previous conviction may be given at any stage of the proceedings, and may be taken into consideration for the purpose of proving that the person accused knew the property which was proved to be in his possession to have been stolen: Provided, that not less than three days' notice in writing has been given to the person accused that proof is intended to be given of such previous conviction; and it shall not be necessary, for the purposes of this section, to charge in the indictment the previous conviction of the person so accused. R.S.C., c. 174, s. 204.

Trial for  
coinage of-  
fences.

**718.** Upon the trial of any person accused of any offence respecting the currency or coin, or against the provisions of Part XXXV., no difference in the date or year, or in any legend marked upon the lawful coin described in the indictment, and the date or year or legend marked upon the false coin counterfeited to resemble or pass for such lawful coin, or upon any die, plate, press, tool or instrument used, constructed, devised, adapted or designed for the purpose of counterfeiting or imitating any such lawful coin, shall be considered a just or lawful cause or reason for acquitting any such person of such offence; and it shall, in any case, be sufficient to prove such general resemblance to the lawful coin as will show an intention that the counterfeit should pass for it. R.S.C., c. 174, s. 205.

**719.**



**719.** On the trial of any indictment or information for the making or publishing of any defamatory libel, on the plea of not guilty pleaded, the jury sworn to try the issue may give a general verdict of guilty or not guilty upon the whole matter put in issue upon such indictment or information, and shall not be required or directed, by the court or judge before whom such indictment or information is tried, to find the defendant guilty merely on the proof of publication by such defendant of the paper charged to be a defamatory libel, and of the sense ascribed to the same in such indictment or information; but the court or judge before whom such trial is had shall, according to the discretion of such court or judge, give the opinion and direction of such court or judge to the jury on the matter in issue as in other criminal cases; and the jury may, on such issue, find a special verdict if they think fit so to do; and the defendant, if found guilty, may move in arrest of judgment on such ground and in such manner as he might have done before the passing of this Act. R.S.C., c. 174, s. 152.

Verdict in  
case of libel.

**720.** Whenever any instrument which has been forged or fraudulently altered is admitted in evidence the court or the judge or person who admits the same may, at the request of any person against whom the same is admitted in evidence, direct that the same shall be impounded and be kept in the custody of some officer of the court or other proper person for such period and subject to such conditions, as to the court, judge or person admitting the same seems meet. R.S.C., c. 174, s. 208.

Impounding  
documents.

**721.** If any false or counterfeit coin is produced on any trial for an offence against Part XXXV., the court shall order the same to be cut in pieces in open court, or in the presence of a justice of the peace, and then delivered to or for the lawful owner thereof, if such owner claims the same. R.S.C., c. 174, s. 209.

Destroying  
counterfeit  
coin.

**722.** On the trial of any person for an offence against this Act, the court may, if it appears expedient for the ends of justice, at any time after the jurors have been sworn to try the case and before they give their verdict, direct that the jury shall have a view of any place, thing or person, and shall give directions as to the manner in which, and the persons by whom, the place, thing or person shall be shown to such jurors, and may for that purpose adjourn the trial and the costs occasioned thereby shall be in the discretion of the court. R.S.C., c. 174, s. 171.

View

2. When such view is ordered, the court shall give such directions as seem requisite for the purpose of preventing undue communication with such jurors: Provided that no breach of any such directions shall affect the validity of the proceedings. R.S.C., c. 174, s. 171.

Variance and amendment.

**723.** If on the trial of any indictment there appears to be a variance between the evidence given and the charge in any count in the indictment, either as found or as amended, or as it would have been if amended in conformity with any particular supplied as provided in sections six hundred and fifteen and six hundred and seventeen, the court before which the case is tried may, if of opinion that the accused has not been misled or prejudiced in his defence by such variance, amend the indictment or any count in it or any such particular so as to make it conformable with the proof.

2. If it appears that the indictment has been preferred under some other Act of Parliament instead of under this Act, or under this instead of under some other Act, or that there is in the indictment, or in any count in it, an omission to state or a defective statement of anything requisite to constitute the offence, or an omission to negative any exception which ought to have been negated, but that the matter omitted is proved by the evidence, the court before which the trial takes place, if of opinion that the accused has not been misled or prejudiced in his defence by such error or omission, shall amend the indictment or count as may be necessary.

3. The trial in either of these cases may then proceed in all respects as if the indictment or count had been originally framed as amended: Provided that if the court is of opinion that the accused has been misled or prejudiced in his defence by any such variance, error, omission or defective statement, but that the effect of such misleading or prejudice might be removed by adjourning or postponing the trial, the court may in its discretion make the amendment and adjourn the trial to a future day in the same sittings, or discharge the jury and postpone the trial to the next sittings of the court, on such terms as it thinks just.

4. In determining whether the accused has been misled or prejudiced in his defence the court which has to determine the question shall consider the contents of the depositions, as well as the other circumstances of the case.

5. Provided that the propriety of making or refusing to make any such amendment shall be deemed a question for the court, and that the decision of the court upon it may be reserved for the Court of Appeal, or may be brought before the Court of Appeal like any other decision on a point of law. R.S.C., c. 174, ss. 237, 238, 239.

Amendment to be endorsed on the record.

**724.** In case an order for amendment as provided for in the next preceding section is made it shall be endorsed on the record; and all other rolls and proceedings connected therewith shall be amended accordingly by the proper officer and filed with the indictment, among the proper records of the court. R.S.C., c. 174, s. 240.

Form of formal record in such case.

**725.** If it becomes necessary to draw up a formal record in any case in which an amendment has been made as aforesaid

said, such record shall be drawn up in the form in which the indictment remained after the amendment was made, without taking any notice of the fact of such amendment having been made. R.S.C., c. 174, s. 243.

**726.** In making up the record of any conviction or acquittal on any indictment it shall be sufficient to copy the indictment with the plea pleaded thereto, without any formal caption or heading; and the statement of the arraignment and the proceedings subsequent thereto shall be entered of record in the same manner as before the passing of this Act, subject to any such alterations in the forms of such entry as are, from time to time, prescribed by any rule or rules of the superior courts of criminal jurisdiction respectively,—which rules shall also apply to such inferior courts of criminal jurisdiction as are therein designated. R.S.C., c. 174, s. 244.

Form of record of conviction or acquittal.

**727.** If the jury retire to consider their verdict they shall be kept under the charge of an officer of the court in some private place, and no person other than the officer of the court who has charge of them shall be permitted to speak or to communicate in any way with any of the jury without the leave of the court.

Jury retiring to consider verdict.

2. Disobedience to the directions of this section shall not affect the validity of the proceedings: Provided that if such disobedience is discovered before the verdict of the jury is returned the court, if it is of opinion that such disobedience has produced substantial mischief, may discharge the jury and direct a new jury to be sworn or empanelled during the sitting of the court, or postpone the trial on such terms as justice may require.

**728.** If the court is satisfied that the jury are unable to agree upon their verdict, and that further detention would be useless, it may in its discretion discharge them and direct a new jury to be empanelled during the sittings of the court, or may postpone the trial on such terms as justice may require.

Jury unable to agree.

2. It shall not be lawful for any court to review the exercise of this discretion.

**729.** The taking of the verdict of the jury or other proceeding of the court shall not be invalid by reason of its happening on Sunday.

Proceedings on Sunday.

**730.** If sentence of death is passed upon any woman she may move in arrest of execution on the ground that she is pregnant. If such a motion is made the court shall direct one or more registered medical practitioners to be sworn to examine the woman in some private place, either together or successively, and to inquire whether she is with child of a quick child or not. If upon the report of any of them it appears

Woman sentenced to death while pregnant.



appears to the court that she is so with child execution shall be arrested till she is delivered of a child, or until it is no longer possible in the course of nature that she should be so delivered.

Jury *de ventre  
inspiciendo*  
abolished.

**731.** After the commencement of this Act no jury *de ventre inspiciendo* shall be empanelled or sworn.

Stay of pro-  
ceedings.

**732.** The Attorney-General may, at any time after an indictment has been found against any person for any offence, and before judgment is given thereon, direct the officer of the court to make on the record an entry that the proceedings are stayed by his direction, and on such entry being made all such proceedings shall be stayed accordingly.

2. The Attorney-General may delegate such power in any particular court to any counsel nominated by him.

Motion in  
arrest of judg-  
ment on ver-  
dict of guilty.

**733.** If the jury find the accused guilty, or if the accused pleads guilty, the judge presiding at the trial shall ask him whether he has anything to say why sentence should not be passed upon him according to law: but the omission so to ask shall have no effect on the validity of the proceedings.

2. The accused may at any time before sentence move in arrest of judgment on the ground that the indictment does not (after any amendment which the court is willing to and has power to make) state any indictable offence.

3. The court may in its discretion either hear and determine the matter during the same sittings or reserve the matter for the Court of Appeal as herein provided. If the court decides in favour of the accused, he shall be discharged from that indictment. If no such motion is made, or if the court decides against the accused upon such motion, the court may sentence the accused during the sittings of the court, or the court may in its discretion discharge him on his own recognizance, or on that of such sureties as the court thinks fit or both, to appear and receive judgment at some future court or when called upon. If sentence is not passed during the sitting, the judge of any superior court before which the person so convicted afterwards appears or is brought, or if he was convicted before a court of general or quarter sessions, the court of general or quarter sessions at a subsequent sitting may pass sentence upon him or direct him to be discharged.

4. When any sentence is passed upon any person after a trial had under an order for changing the place of trial, the court may in its discretion, either direct the sentence to be carried out at the place where the trial was had or order the person sentenced to be removed to the place where his trial would have been had but for such order, so that the sentence may be there carried out.

Judgment not  
to be arrested  
for formal  
defects.

**734.** Judgment, after verdict upon an indictment for any offence against this Act, shall not be stayed or reversed for want



want of a *similiter*,—nor by reason that the jury process has been awarded to a wrong officer, upon an insufficient suggestion,—nor for any misnomer or misdescription of the officer returning such process, or of any of the jurors,—nor because any person has served upon the jury who was not returned as a juror by the sheriff or other officer; and where the offence charged is an offence created by any statute, or subjected to a greater degree of punishment by any statute, the indictment shall, after verdict, be held sufficient, if it describes the offence in the words of the statute creating the offence, or prescribing the punishment, although they are disjunctively stated or appear to include more than one offence, or otherwise. R.S.C., c. 174, s. 246.

**735.** No omission to observe the directions contained in any Act as respects the qualification, selection, balloting or distribution of jurors, the preparation of the jurors' book, the selecting of jury lists, the drafting panels from the jury lists or the striking of special juries, shall be a ground for impeaching any verdict, or shall be allowed for error upon any writ of error or appeal to be brought upon any judgment rendered in any criminal case. R.S.C., c. 174, s. 247.

Verdict not to be impeached for certain omissions as to jurors.

**736.** Whenever it is given in evidence upon the trial of any person charged with any indictable offence, that such person was insane at the time of the commission of such offence, and such person is acquitted, the jury shall be required to find, specially, whether such person was insane at the time of the commission of such offence, and to declare whether he is acquitted by it on account of such insanity; and if it finds that such person was insane at the time of committing such offence, the court before which such trial is had, shall order such person to be kept in strict custody in such place and in such manner as to the court seems fit, until the pleasure of the Lieutenant-Governor is known.

Insanity of accused at time of offence.

**737.** If at any time after the indictment is found, and before the verdict is given, it appears to the court that there is sufficient reason to doubt whether the accused is then, on account of insanity, capable of conducting his defence, the court may direct that an issue shall be tried whether the accused is or is not then on account of insanity unfit to take his trial.

Insanity of accused on arraignment or trial.

2. If such issue is directed before the accused is given in charge to a jury for trial on the indictment such issue shall be tried by any twelve jurors. If such issue is directed after the accused has been given in charge to a jury for trial on the indictment such jury shall be sworn to try this issue in addition to that on which they are already sworn

3. If the verdict on this issue is that the accused is not then unfit to take his trial the arraignment or the trial shall proceed

ceed as if no such issue had been directed. If the verdict is that he is unfit on account of insanity the court shall order the accused to be kept in custody till the pleasure of the Lieutenant-Governor of the province shall be known, and any plea pleaded shall be set aside and the jury shall be discharged.

4. No such proceeding shall prevent the accused being afterwards tried on such indictment. R.S.C., c. 174, ss. 252 and 255.

Custody of persons formerly acquitted for insanity.

**738.** If any person before the passing of this Act, whether before or after the first day of July, one thousand eight hundred and sixty-seven, was acquitted of any such offence on the ground of insanity at the time of the commission thereof, and has been detained in custody as a dangerous person by order of the court before which such person was tried, and still remains in custody, the Lieutenant-Governor may make a like order for the safe custody of such person during pleasure. R.S.C., c. 174, s. 254.

Insanity of person to be discharged for want of prosecution.

**739.** If any person charged with an offence is brought before any court to be discharged for want of prosecution, and such person appears to be insane, the court shall order a jury to be empanelled to try the sanity of such person, and if the jury so empanelled finds him insane, the court shall order such person to be kept in strict custody, in such place and in such manner as to the court seems fit, until the pleasure of the Lieutenant-Governor is known. R.S.C., c. 174, s. 256.

Custody of insane person.

**740.** In all cases of insanity so found, the Lieutenant-Governor may make an order for the safe custody of the person so found to be insane, in such place and in such manner as to him seems fit. R.S.C., c. 174, ss. 253 and 257.

Insanity of person imprisoned.

**741.** The Lieutenant-Governor, upon such evidence of the insanity of any person imprisoned in any prison other than a penitentiary for an offence, or imprisoned for safe custody charged with an offence, or imprisoned for not finding bail for good behaviour or to keep the peace, as the Lieutenant-Governor considers sufficient, may order the removal of such insane person to a place of safe keeping; and such person shall remain there, or in such other place of safe keeping, as the Lieutenant-Governor from time to time orders, until his complete or partial recovery is certified to the satisfaction of the Lieutenant-Governor, who may then order such insane person back to imprisonment, if then liable thereto, or otherwise to be discharged. R.S.C., c. 174, s. 258.

## PART LII.

## APPEAL.

**742.** An appeal from the verdict or judgment of any court or judge having jurisdiction in criminal cases, or of a magistrate proceeding under section seven hundred and eighty-five, on the trial of any person for an indictable offence, shall lie upon the application of such person if convicted, to the Court of Appeal in the cases hereinafter provided for, and in no others. Appeal in criminal cases.

2. Whenever the judges of the Court of Appeal are unanimous in deciding an appeal brought before the said court their decision shall be final. If any of the judges dissent from the opinion of the majority, an appeal shall lie from such decision to the Supreme Court of Canada as hereinafter provided.

**743.** No proceeding in error shall be taken in any criminal case begun after the commencement of this Act : Reserving questions of law.

2. The court before which any accused person is tried may, either during or after the trial, reserve any question of law arising either on the trial or on any of the proceedings preliminary, subsequent, or incidental thereto, or arising out of the direction of the judge, for the opinion of the Court of Appeal in manner hereinafter provided.

3. Either the prosecutor or the accused may during the trial either orally or in writing apply to the court to reserve any such question as aforesaid, and the court, if it refuses so to reserve it, shall nevertheless take a note of such objection.

4. After a question is reserved the trial shall proceed as in other cases.

5. If the result is a conviction, the court may in its discretion respite the execution of the sentence or postpone sentence till the question reserved has been decided, and shall in its discretion commit the person convicted to prison or admit him to bail with one or two sufficient sureties, in such sums as the court thinks fit, to surrender at such time as the court directs.

6. If the question is reserved, a case shall be stated for the opinion of the Court of Appeal.

**744.** If the court refuses to reserve the question, the party applying may, with the leave in writing of the Attorney-General, move the Court of Appeal as hereinafter provided. The Attorney-General may in his discretion give or refuse such leave. Appeal when no question reserved.

2. The Attorney-General, or any person to whom such leave as aforesaid is given, may on notice of motion to be given to the accused or prosecutor, as the case may be, move the Court

Court of Appeal for leave to appeal. The Court of Appeal may upon the motion and upon considering such evidence (if any) as they think fit to require, grant or refuse such leave.

3. If leave to appeal is granted, a case shall be stated for the opinion of the Court of Appeal as if the question had been reserved.

4. If the sentence is alleged to be one which could not by law be passed, either party may without leave, upon giving notice of motion to the other side, move the Court of Appeal to pass a proper sentence.

5. If the court has arrested judgment, and refused to pass any sentence, the prosecutor may without leave make such a motion.

Evidence for  
Court of  
Appeal.

**745.** On any appeal or application for a new trial, the court before which the trial was had shall, if it thinks necessary, or if the Court of Appeal so desires, send to the Court of Appeal a copy of the whole or of such part as may be material of the evidence or the notes taken by the judge or presiding justice at the trial. The Court of Appeal may, if only the judge's notes are sent and it considers such notes defective, refer to such other evidence of what took place at the trial as it may think fit. The Court of Appeal may in its discretion send back any case to the court by which it was stated to be amended or restated. R.S.C., c. 174, s. 264.

Powers of  
Court of  
Appeal.

**746.** Upon the hearing of any appeal under the powers hereinbefore contained, the Court of Appeal may—

(a.) confirm the ruling appealed from; or

(b.) if of opinion that the ruling was erroneous, and that there has been a mis-trial in consequence, direct a new trial; or

(c.) if it considers the sentence erroneous or the arrest of judgment erroneous, pass such a sentence as ought to have been passed or set aside any sentence passed by the court below, and remit the case to the court below with a direction to pass the proper sentence; or

(d.) if of opinion in a case in which the accused has been convicted that the ruling was erroneous, and that the accused ought to have been acquitted, direct that the accused shall be discharged, which order shall have all the effects of an acquittal; or

(e.) direct a new trial; or

(f.) make such other order as justice requires: Provided that no conviction shall be set aside nor any new trial directed, although it appears that some evidence was improperly admitted or rejected, or that something not according to law was done at the trial or some misdirection given, unless in the opinion of the Court of Appeal some substantial wrong or miscarriage was thereby occasioned on the trial: Provided that



that if the Court of Appeal is of opinion that any challenge for the defence was improperly disallowed a new trial shall be granted.

2. If it appears to the Court of Appeal that such wrong or miscarriage affected some count only of the indictment the court may give separate directions as to each count and may pass sentence on any count unaffected by such wrong or miscarriage which stands good, or may remit the case to the court below with directions to pass such sentence as justice may require.

3. The order or direction of the Court of Appeal shall be certified under the hand of the presiding chief justice or senior puisne judge to the proper officer of the court before which the case was tried, and such order or direction shall be carried into effect. R.S.C., c. 174, s. 263.

**747.** After the conviction of any person for any indictable offence the court before which the trial takes place may, either during the sitting or afterwards, give leave to the person convicted to apply to the Court of Appeal for a new trial on the ground that the verdict was against the weight of evidence. The Court of Appeal may, upon hearing such motion, direct a new trial if it thinks fit.

Application  
for a new  
trial.

2. In the case of a trial before a Court of General or Quarter Sessions such leave may be given, during or at the end of the session, by the judge or other person who presided at the trial.

**748.** If upon any application for the mercy of the Crown on behalf of any person convicted of an indictable offence, the Minister of Justice entertains a doubt whether such person ought to have been convicted, he may, instead of advising Her Majesty to remit or commute the sentence, after such inquiry as he thinks proper, by an order in writing direct a new trial at such time and before such court as he may think proper.

New trial by  
order of Mi-  
nister of  
Justice.

**749.** The sentence of a court shall not be suspended by reason of any appeal, unless the court expressly so directs, except where the sentence is that the accused suffer death, or whipping. The production of a certificate from the officer of the court that a question has been reserved, or that leave has been given to apply for a new trial, or of a certificate from the Attorney-General that he has given leave to move the Court of Appeal, or of a certificate from the Minister of Justice that he has directed a new trial, shall be a sufficient warrant to suspend the execution of any sentence of death or whipping.

Intermediate  
effects of  
appeal.

2. In all cases it shall be in the discretion of the Court of Appeal in directing a new trial to order the accused to be admitted to bail.

Appeal to  
Supreme  
Court of  
Canada.

**750.** Any person convicted of any indictable offence, whose conviction has been affirmed on an appeal taken under section seven hundred and forty-two may appeal to the Supreme Court of Canada against the affirmance of such conviction; and the Supreme Court of Canada shall make such rule or order thereon, either in affirmance of the conviction or for granting a new trial, or otherwise, or for granting or refusing such application, as the justice of the case requires, and shall make all other necessary rules and orders for carrying such rule or order into effect: Provided that no such appeal can be taken if the Court of Appeal is unanimous in affirming the conviction, nor unless notice of appeal in writing has been served on the Attorney-General within fifteen days after such affirmance or such further time as may be allowed by the Supreme Court of Canada or a judge thereof.

2. Unless such appeal is brought on for hearing by the appellant at the session of the Supreme Court during which such affirmance takes place, or the session next thereafter if the said court is not then in session, the appeal shall be held to have been abandoned, unless otherwise ordered by the Supreme Court or a judge thereof.

3. The judgment of the Supreme Court shall, in all cases, be final and conclusive. 50-51 V., c. 50, s. 1.

Appeals to  
Privy Council  
abolished.

**751.** Notwithstanding any royal prerogative, or anything contained in *The Interpretation Act* or in *The Supreme and Exchequer Courts Act*, no appeal shall be brought in any criminal case from any judgment or order of any court in Canada to any court of appeal or authority, by which in the United Kingdom appeals or petitions to Her Majesty in Council may be heard. 51 V., c. 43, s. 1.

#### PART LIII.

#### SPECIAL PROVISIONS.

Further  
detention  
of person  
accused.

**752.** Whenever any person in custody charged with an indictable offence has taken proceedings before a judge or criminal court having jurisdiction in the premises by way of *certiorari*, *habeas corpus* or otherwise, to have the legality of his imprisonment inquired into, such judge or court may, with or without determining the question, make an order for the further detention of the person accused, and direct the judge or justice under whose warrant he is in custody, or any other judge or justice to take any proceedings, hear such evidence, or do such further act as in the opinion of the court or judge may best further the ends of justice.

Question  
raised at trial  
may be re-  
served for  
decision.

**753.** Any judge or other person presiding at the sittings of a court at which any person is tried for an indictable offence under this Act, whether he is the judge of such court

court or is appointed by commission or otherwise to hold such sittings, may reserve the giving of his final decision on questions raised at the trial; and his decision, whenever given, shall be considered as if given at the time of the trial. R.S.C., c. 174, s. 269.

**754.** The practice and procedure in all criminal cases and matters in the High Court of Justice of Ontario which are not provided for in this Act, shall be the same as the practice and procedure in similar cases and matters heretofore. R.S.C., c. 174, s. 270.

Practice in  
High Court of  
Justice of  
Ontario.

**755.** If any general commission for the holding of a court of assize and *nisi prius*, oyer and terminer or general gaol delivery is issued by the Governor-General for any county or district in the province of Ontario, such commission shall contain the names of the justices of the Supreme Court of Judicature for Ontario, and may also contain the names of the judges of any of the county courts in Ontario, and of any of Her Majesty's counsel learned in the law duly appointed for the province of Upper Canada, or for the province of Ontario, and if any such commission is for a provisional judicial district such commission may contain the name of the judge of the district court of the said district.

Commission  
of court of  
assize, &c.

2. The said courts shall be presided over by one of the justices of the said Supreme Court, or in their absence by one of such county court judges or by one of such counsel, or in the case of any such district by the judge of such district court. R.S.C., c. 174, s. 271.

**756.** It shall not be necessary for any court of General Sessions in the province of Ontario to deliver the gaol of all prisoners who are confined upon charges of theft, but the court may leave any such cases to be tried at the next court of oyer and terminer and general gaol delivery, if, by reason of the difficulty or importance of the case, or for any other cause, it appears to it proper so to do. R.S.C., c. 174, s. 272.

Court of gene-  
ral sessions.

**757.** If any person is prosecuted in any division of the High Court of Justice for Ontario for any indictable offence, by information there filed, or by indictment there found or removed into such court, and appears therein in term time in person, or, in case of a corporation, by attorney, to answer to such information or indictment, such defendant, upon being charged therewith, shall not imparl to a following term, but shall plead or demur thereto within four days from the time of his appearance; and in default of his pleading or demurring within four days as aforesaid judgment may be entered against such defendant for want of a plea. R.S.C., c. 174, s. 273.

Time for  
pleading to  
indictment in  
Ontario.



Rule to plead.

**758.** If such defendant appears to such information or indictment by attorney, he shall not imparl to a following term, but a rule, requiring him to plead, may forthwith be given and served, and a plea to such information or indictment may be enforced, or judgment in default may be entered, in the same manner as might have been done formerly in cases in which the defendant had appeared to such information or indictment by attorney in a previous term; but the court, or any judge thereof, upon sufficient cause shown for that purpose, may allow further time for such defendant to plead or demur to such information or indictment. R.S.C., c. 174, s. 274.

Delay in prosecution.

**759.** If any prosecution for an indictable offence, instituted by the Attorney-General for Ontario in the said court, is not brought to trial within twelve months next after the plea of not guilty has been pleaded thereto, the court in which such prosecution is depending, upon application made on behalf of any defendant in such prosecution of which application twenty days' previous notice shall be given to such Attorney-General, may make an order authorizing such defendant to bring on the trial of such prosecution; and thereupon such defendant may bring on such trial accordingly unless a *notte prosequi* is entered to such prosecution. R.S.C., c. 174, s. 275.

Calendar of criminal cases in Nova Scotia.

**760.** In the province of Nova Scotia a calendar of the criminal cases shall be sent by the clerk of the Crown to the grand jury in each term, together with the depositions taken in each case and the names of the different witnesses, and the indictments shall not be made out, except in Halifax, until the grand jury so directs. R.S.C., c. 174, s. 276.

Criminal sentence in Nova Scotia.

**761.** A judge of the Supreme Court of Nova Scotia may sentence convicted criminals on any day of the sittings at Halifax, as well as in term time. R.S.C., c. 174, s. 277.

#### PART LIV.

#### SPEEDY TRIALS OF INDICTABLE OFFENCES.

Application.

**762.** The provisions of this part do not apply to the North-west Territories or the district of Keewatin. 52 V., c. 47, s. 3.

Definitions.

**763.** In this part, unless the context otherwise requires,—  
 (a.) the expression “judge” means and includes,—  
 (i.) in the province of Ontario, any judge of a county court, junior judge or deputy judge authorized to act as chairman of the General Sessions of the Peace, and also the judges of the provisional districts of Algoma and Thunder Bay



Bay, and the judge of the district court of Muskoka and Parry Sound, authorized respectively to act as chairman of the General Sessions of the Peace ;

(ii.) in the province of Quebec, in any district wherein there is a judge of the sessions, such judge of sessions, and in any district wherein there is no judge of sessions but wherein there is a district magistrate, such district magistrate, and in any district wherein there is neither a judge of sessions nor a district magistrate, the sheriff of such district ;

(iii.) in each of the provinces of Nova Scotia, New Brunswick and Prince Edward Island, any judge of a county court ;

(iv.) in the province of Manitoba the chief justice, or a puisne judge of the Court of Queen's Bench, or any judge of a county court ;

(v.) in the province of British Columbia the chief justice or a puisne judge of the Supreme Court, or any judge of a county court ;

(b.) the expression "county attorney" or "clerk of the peace" includes in the provinces of Nova Scotia, New Brunswick and Prince Edward Island, any clerk of a county court, and in the province of Manitoba, any Crown attorney, the prothonotary of the Court of Queen's Bench, and any deputy prothonotary thereof, any deputy clerk of the peace, and the deputy clerk of the Crown and pleas for any district in the said province. 52 V., c. 47, s. 2.

**764.** The judge sitting on any trial under this part, for all the purposes thereof and proceedings connected therewith or relating thereto, shall be a court of record, and in every province of Canada, except the province of Quebec, such court shall be called "The County Court Judge's Criminal Court" of the county or union of counties or judicial district in which the same is held. Judge to be a court of record.

2. The record in any such case shall be filed among the records of the court over which the judge presides, and as part of such records. 52 V., c. 47, s. 4.

**765.** Every person committed to gaol for trial on a charge of being guilty of any of the offences which are mentioned in section five hundred and thirty-nine as being within the jurisdiction of the General or Quarter Sessions of the Peace, may, with his own consent (of which consent an entry shall then be made of record), and subject to the provisions herein, be tried in any province under the following provisions out of sessions and out of the regular term or sittings of the court, whether the court before which, but for such consent, the said person would be triable for the offence charged, or the grand jury thereof, is or is not then in session, and if such person is convicted, he may be sentenced by the judge. 52 V., c. 47, s. 5. Offences triable under this part.

Duty of sheriff after committal of accused.

**766.** Every sheriff shall, within twenty-four hours after any prisoner charged as aforesaid is committed to gaol for trial, notify the judge in writing that such prisoner is so confined, stating his name and the nature of the charge preferred against him, whereupon, with as little delay as possible, such judge shall cause the prisoner to be brought before him. 52 V., c. 47, s. 6.

Arraignment of accused before judge.

**767.** The judge, upon having obtained the depositions on which the prisoner was so committed, shall state to him, (a.) that he is charged with the offence, describing it; (b.) that he has the option to be forthwith tried before such judge without the intervention of a jury, or to remain in custody or under bail, as the court decides, to be tried in the ordinary way by the court having criminal jurisdiction.

2. If the prisoner demands a trial by jury the judge shall remand him to gaol; but if he consents to be tried by the judge without a jury the county solicitor, clerk of the peace or other prosecuting officer shall prefer the charge against him for which he has been committed for trial, and if, upon being arraigned upon the charge, the prisoner pleads guilty, the prosecuting officer shall draw up a record as nearly as may be in one of the forms MM or NN in schedule one to this Act, such plea shall be entered on the record, and the judge shall pass the sentence of the law on such prisoner, which shall have the same force and effect as if passed by any court having jurisdiction to try the offence in the ordinary way. 52 V., c. 47, s. 7.

Persons jointly accused.

**768.** If one of two or more prisoners charged with the same offence demands a trial by jury, and the other or others consent to be tried by the judge without a jury, the judge, in his discretion, may remand all the said prisoners to gaol to await trial by a jury. 52 V., c. 47, s. 8.

Election after refusal to be tried by judge.

**769.** If under Part LV. or Part LVI., any person has been asked to elect whether he would be tried by the magistrate or justices of the peace, as the case may be, or before a jury, and he has elected to be tried before a jury, and if such election is stated in the warrant of committal for trial, the sheriff and judge shall not be required to take the proceedings directed by this part. 52 V., c. 47, s. 9.

2. But if such person, after his said election to be tried by a jury, has been committed for trial he may, at any time before the regular term or sittings of the court at which such trial by jury would take place, notify the sheriff that he desires to re-elect; whereupon it shall be the duty of the sheriff to proceed as directed by section seven hundred and sixty-six, and thereafter the person so committed shall be proceeded against as if his said election in the first instance had not been made. 53 V., c. 37, s. 30.

**770.** Proceedings under this part commenced before any judge may, where such judge is for any reason unable to act, be continued before any other judge competent to try prisoners under this part in the same judicial district, and such last mentioned judge shall have the same powers with respect to such proceedings as if such proceedings had been commenced before him, and may cause such portion of the proceedings to be repeated before him as he shall deem necessary. 53 V., c. 37, s. 30.

Continuance  
of proceedings  
before another  
judge.

**771.** If, on the trial under Part LV. or Part LVI. of this Act of any person charged with any offence triable under the provisions of this part, the magistrate or justices of the peace decide not to try the same summarily, but commit such person for trial, such person may afterwards, with his own consent, be tried under the provisions of this part. 52 V., c. 47, s. 10.

Election after  
committal  
under Part  
LV. or LVI.

**772.** If the prisoner upon being so arraigned and consenting as aforesaid pleads not guilty the judge shall appoint an early day, or the same day, for his trial, and the county attorney or clerk of the peace shall subpoena the witnesses named in the depositions, or such of them and such other witnesses as he thinks requisite to prove the charge, to attend at the time appointed for such trial, and the judge may proceed to try such prisoner, and if he be found guilty sentence shall be passed as hereinbefore mentioned; but if he be found not guilty the judge shall immediately discharge him from custody, so far as respects the charge in question. 52 V., c. 47, s. 11.

Trial of  
accused.

**773.** The county attorney or clerk of the peace or other prosecuting officer may, with the consent of the judge, prefer against the prisoner a charge or charges for any offence or offences for which he may be tried under the provisions of this part other than the charge or charges for which he has been committed to gaol for trial, although such charge or charges do not appear or are not mentioned in the depositions upon which the prisoner was so committed. 52 V., c. 47, s. 12.

Trial for of-  
fences other  
than those for  
which accused  
is committed.

**774.** The judge shall, in any case tried before him, have the same power as to acquitting or convicting, or convicting of any other offence than that charged, as a jury would have in case the prisoner were tried at a sitting of any court mentioned in this part, and may render any verdict which may be rendered by a jury upon a trial at a sitting of any such court. 52 V., c. 47, s. 13.

Powers of  
judge.

**775.** If a prisoner elects to be tried by the judge without the intervention of a jury the judge may, in his discretion, admit him to bail to appear for his trial, and extend the bail,

Admission to  
bail.



bail, from time to time, in case the court be adjourned or there is any other reason therefor; and such bail may be entered into and perfected before the clerk. 52 V., c. 47, s. 14.

Bail in case of election of trial by jury.

**776.** If a prisoner elects to be tried by a jury the judge may, instead of remanding him to gaol, admit him to bail, to appear for trial at such time and place and before such court as is determined upon, and such bail may be entered into and perfected before the clerk. 52 V., c. 47, s. 15.

Adjournment.

**777.** The judge may adjourn any trial from time to time until finally terminated. 52 V., c. 47, s. 16.

Powers of amendment.

**778.** The judge shall have all powers of amendment which any court mentioned in this part would have if the trial was before such court. 52 V., c. 47, s. 17.

Recognizance to prosecute or give evidence to apply to proceedings under this part.

**779.** Any recognizance taken under section five hundred and ninety-eight of this Act, for the purpose of binding a prosecutor or a witness, shall, if the person committed for trial elects to be tried under the provisions of this part, be obligatory on each of the persons bound thereby, as to all things therein mentioned with reference to the trial by the judge under this part, as if such recognizance had been originally entered into for the doing of such things with reference to such trial: Provided, that at least forty-eight hours' notice in writing shall be given, either personally or by leaving the same at the place of residence of the persons bound by such recognizance as therein described, to appear before the judge at the place where such trial is to be had. 53 V., c. 37, s. 29.

Witnesses to attend throughout trial.

**780.** Every witness, whether on behalf of the prisoner or against him, duly summoned or subpœnaed to attend and give evidence before such judge, sitting on any such trial, on the day appointed for the same, shall be bound to attend and remain in attendance throughout the trial; and if he fails so to attend he shall be held guilty of contempt of court, and may be proceeded against therefor accordingly. 52 V., c. 47, s. 18.

Compelling attendance of witness.

**781.** Upon proof to the satisfaction of the judge of the service of subpœna upon any witness who fails to attend before him, as required by such subpœna, and upon such judge being satisfied that the presence of such witness before him is indispensable to the ends of justice, he may, by his warrant, cause the said witness to be apprehended and forthwith brought before him to give evidence as required by such subpœna, and to answer for his disregard of the same; and such witness may be detained on such warrant before the said judge, or in the common gaol, with a view to



to secure his presence as a witness; or, in the discretion of the judge, such witness may be released on recognizance with or without sureties, conditioned for his appearance to give evidence as therein mentioned, and to answer for his default in not attending upon the said subpoena, as for a contempt; and the judge may, in a summary manner, examine into and dispose of the charge of contempt against the said witness who, if found guilty thereof, may be fined or imprisoned, or both, such fine not to exceed one hundred dollars, and such imprisonment to be in the common gaol, with or without hard labour, and not to exceed the term of ninety days, and he may also be ordered to pay the costs incident to the execution of such warrant and of his detention in custody.

2. Such warrant may be in the form OO and the conviction for contempt in the form PP in schedule one to this Act, and the same shall be authority to the persons and officers therein required to act to do as therein they are respectively directed. 52 V., c. 47, s. 19.

#### PART LV.

#### SUMMARY TRIAL OF INDICTABLE OFFENCES.

**782.** In this part, unless the context otherwise requires, Definitions.

(a.) the expression "magistrate" means and includes—

(i.) in the provinces of Ontario, Quebec and Manitoba, any recorder, judge of a county court, being a justice of the peace, commissioner of police, judge of the sessions of the peace, police magistrate, district magistrate, or other functionary or tribunal, invested by the proper legislative authority, with power to do alone such acts as are usually required to be done by two or more justices of the peace, and acting within the local limits of his or of its jurisdiction;

(ii.) in the provinces of Nova Scotia and New Brunswick, any recorder, judge of a county court, stipendiary magistrate or police magistrate, acting within the local limits of his jurisdiction, and any commissioner of police and any functionary, tribunal or person invested by the proper legislative authority with power to do alone such acts as are usually required to be done by two or more justices of the peace;

(iii.) in the provinces of Prince Edward Island and British Columbia and in the district of Keewatin, any two justices of the peace sitting together, and any functionary or tribunal having the powers of two justices of the peace;

(iv.) in the North-west Territories, any judge of the Supreme Court of the said territories, any two justices of the

the peace sitting together, and any functionary or tribunal having the powers of two justices of the peace;

(b.) the expression "the common gaol or other place of confinement," in the case of any offender whose age at the time of his conviction does not, in the opinion of the magistrate, exceed sixteen years, includes any reformatory prison provided for the reception of juvenile offenders in the province in which the conviction referred to takes place, and to which by the law of that province the offender may be sent; and

(c.) the expression "property" includes everything included under the same expression or under the expression "valuable security," as defined by this Act, and in the case of any "valuable security," the value thereof shall be reckoned in the manner prescribed in this Act. R.S.C., c. 176, s. 2.

Offences to be  
dealt with  
under this  
part.

**783.** Whenever any person is charged before a magistrate,

(a.) with having committed theft, or obtained money or property by false pretenses, or unlawfully received stolen property, and the value of the property alleged to have been stolen, obtained or received, does not, in the judgment of the magistrate, exceed ten dollars; or

(b.) with having attempted to commit theft; or

(c.) with having committed an aggravated assault by unlawfully and maliciously inflicting upon any other person, either with or without a weapon or instrument, any grievous bodily harm, or by unlawfully and maliciously wounding any other person; or

(d.) with having committed an assault upon any female whatsoever, or upon any male child whose age does not, in the opinion of the magistrate, exceed fourteen years, such assault being of a nature which cannot, in the opinion of the magistrate, be sufficiently punished by a summary conviction before him under any other part of this Act, and such assault, if upon a female, not amounting, in his opinion, to an assault with intent to commit a rape; or

(e.) with having assaulted, obstructed, molested or hindered any peace officer or public officer in the lawful performance of his duty, or with intent to prevent the performance thereof; or

(f.) with keeping or being an inmate, or habitual frequenter of any disorderly house, house of ill-fame or bawdy-house; or

(g.) with using or knowingly allowing any part of any premises under his control to be used—

(i.) for the purpose of recording or registering any bet or wager, or selling any pool; or

(ii.) keeping, exhibiting, or employing, or knowingly allowing to be kept, exhibited or employed, any device or apparatus for the purpose of recording or registering any bet or wager, or selling any pool; or

(h.)

(h.) becoming the custodian or depositary of any money, property, or valuable thing staked, wagered or pledged; or

(i.) recording or registering any bet or wager, or selling any pool, upon the result of any political or municipal election, or of any race, or of any contest or trial of skill or endurance of man or beast,—

the magistrate may, subject to the provisions hereinafter made, hear and determine the charge in a summary way. R.S.C., c. 176, s. 3.

**784.** The jurisdiction of such magistrate is absolute in the case of any person charged with keeping or being an inmate or habitual frequenter of any disorderly house, house of ill-fame or bawdy-house, and does not depend on the consent of the person charged to be tried by such magistrate, nor shall such person be asked whether he consents to be so tried; nor do the provisions of this part affect the absolute summary jurisdiction given to any justice or justices of the peace in any case by any other part of this Act. R.S.C., c. 176, s. 4.

When magistrate shall have absolute jurisdiction.

2. The jurisdiction of the magistrate is absolute in the case of any person who, being a seafaring person and only transiently in Canada, and having no permanent domicile therein, is charged, either within the city of Quebec as limited for the purpose of the police ordinance, or within the city of Montreal as so limited, or in any other seaport city or town in Canada where there is such magistrate, with the commission therein of any of the offences hereinbefore mentioned, and also in the case of any other person charged with any such offence on the complaint of any such seafaring person whose testimony is essential to the proof of the offence; and such jurisdiction does not depend on the consent of any such person to be tried by the magistrate, nor shall such person be asked whether he consents to be so tried. R.S.C., c. 176, s. 5.

3. The jurisdiction of a stipendiary magistrate in the province of Prince Edward Island and of a magistrate in the district of Keewatin, under this part, is absolute without the consent of the person charged. 52 V., c. 46, s. 1.

**785.** If any person is charged, in the province of Ontario before a police magistrate or before a stipendiary magistrate in any county, district or provisional county in such province, with having committed any offence for which he may be tried at a Court of General Sessions of the Peace, or if any person is committed to a gaol in the county, district or provisional county, under the warrant of any justice of the peace, for trial on a charge of being guilty of any such offence, such person may, with his own consent, be tried before such magistrate, and may, if found guilty, be sentenced by the magistrate to the same punishment as he would have been liable to if he had been tried before the Court of General Sessions of the Peace. R.S.C., c. 176, s. 7.

Summary trial in certain other cases.



Proceedings  
on arraignment  
of  
accused.

**786.** Whenever the magistrate, before whom any person is charged as aforesaid, proposes to dispose of the case summarily under the provisions of this part, such magistrate, after ascertaining the nature and extent of the charge, but before the formal examination of the witnesses for the prosecution, and before calling on the person charged for any statement which he wishes to make, shall state to such person the substance of the charge against him, and (if the charge is not one that can be tried summarily without the consent of the accused) shall then say to him these words, or words to the like effect: "Do you consent that the charge against you shall be tried by me, or do you desire that it shall be sent for trial by a jury at the (*naming the court at which it can probably soonest be tried*);" and if the person charged consents to the charge being summarily tried and determined as aforesaid, or if the power of the magistrate to try it does not depend on the consent of the accused, the magistrate shall reduce the charge to writing and read the same to such person, and shall then ask him whether he is guilty or not of such charge. If the person charged confesses the charge the magistrate shall then proceed to pass such sentence upon him as by law may be passed in respect to such offence, subject to the provisions of this Act; but if the person charged says that he is not guilty, the magistrate shall then examine the witnesses for the prosecution, and when the examination has been completed, the magistrate shall inquire of the person charged whether he has any defence to make to such charge, and if he states that he has a defence the magistrate shall hear such defence, and shall then proceed to dispose of the case summarily. R.S.C., c. 176, ss. 8 and 9.

Punishment  
for certain  
offences under  
this part.

**787.** In the case of an offence charged under paragraph (a) or (b) of section seven hundred and eighty-three, the magistrate, after hearing the whole case for the prosecution and for the defence, shall, if he finds the charge proved, convict the person charged and commit him to the common gaol or other place of confinement, there to be imprisoned, with or without hard labour, for any term not exceeding six months. R.S.C., c. 176, s. 10.

Punishment  
for certain  
other offences.

**788.** In any case summarily tried under paragraph (c), (d), (e), (f), (g), (h) or (i) of section seven hundred and eighty-three, if the magistrate finds the charge proved, he may convict the person charged and commit him to the common gaol or other place of confinement, there to be imprisoned, with or without hard labour, for any term not exceeding six months, or may condemn him to pay a fine not exceeding, with the costs in the case, one hundred dollars, or to both fine and imprisonment not exceeding the said sum and term; and such fine may be levied by warrant of distress under the hand and seal of the magistrate, or the person convicted may be condemned, in addition to any other imprisonment on the same conviction,



conviction, to be committed to the common gaol or other place of confinement for a further term not exceeding six months, unless such fine is sooner paid. R.S.C., c. 176, s. 11.

**789.** When any person is charged before a magistrate with theft or with having obtained property by false pretenses, or with having unlawfully received stolen property, and the value of the property stolen, obtained or received exceeds ten dollars, and the evidence in support of the prosecution is, in the opinion of the magistrate, sufficient to put the person on his trial for the offence charged, such magistrate, if the case appears to him to be one which may properly be disposed of in a summary way, and may be adequately punished by virtue of the powers conferred by this part, shall reduce the charge to writing, and shall read it to the said person, and, unless such person is one who can be tried summarily without his consent, shall then put to him the question mentioned in section seven hundred and eighty-six, and shall explain to him that he is not obliged to plead or answer before such magistrate, and that if he does not plead or answer before him, he will be committed for trial in the usual course. R.S.C., c. 176, s. 12.

Proceedings for offences in respect of property worth over ten dollars.

**790.** If the person charged as mentioned in the next preceding section consents to be tried by the magistrate, the magistrate shall then ask him whether he is guilty or not guilty of the charge, and if such person says that he is guilty, the magistrate shall then cause a plea of guilty to be entered upon the proceedings, and sentence him to the same punishment as he would have been liable to if he had been convicted upon indictment in the ordinary way; and if he says that he is not guilty, the magistrate shall proceed as provided in section seven hundred and eighty-six. 52 V., c. 46, s. 2.

Punishment on plea of guilty in such case.

**791.** If, in any proceeding under this part, it appears to the magistrate that the offence is one which, owing to a previous conviction of the person charged, or from any other circumstance, ought to be made the subject of prosecution by indictment rather than to be disposed of summarily, such magistrate may, before the accused person has made his defence, decide not to adjudicate summarily upon the case; but a previous conviction shall not prevent the magistrate from trying the offender summarily, if he thinks fit so to do. R.S.C., c. 176, s. 14.

Magistrate may decide not to proceed summarily.

**792.** If, when his consent is necessary, the person charged elects to be tried before a jury, the magistrate shall proceed to hold a preliminary inquiry as provided in Parts XLIV. and XLV., and if the person charged is committed for trial, shall state in the warrant of committal the fact of such election having been made. R.S.C., c. 176, s. 15.

Election of trial by jury to be stated on warrant of committal.

Full defence  
allowed.

**793.** In every case of summary proceedings under this part the person accused shall be allowed to make his full answer and defence, and to have all witnesses examined and cross-examined by counsel or solicitor. R.S.C., c. 176, s. 16.

Proceedings  
to be in open  
court.

**794.** Every court held by a magistrate for the purposes of this part shall be an open public court.

Procuring  
attendance of  
witnesses.

**795.** The magistrate before whom any person is charged under the provisions of this part may, by summons, require the attendance of any person as a witness upon the hearing of the case, at a time and place to be named in such summons, and such magistrate may bind, by recognizance, all persons whom he considers necessary to be examined, touching the matter of such charge, to attend at the time and place appointed by him and then and there to give evidence upon the hearing of such charge; and if any person so summoned, or required or bound as aforesaid, neglects or refuses to attend in pursuance of such summons or recognizance, and if proof is made of such person having been duly summoned as hereinafter mentioned, or bound by recognizance as aforesaid, the magistrate before whom such person should have attended may issue a warrant to compel his appearance as a witness. R.S.C., c. 176, s. 18.

Service of  
summons.

**796.** Every summons issued under the provisions of this part may be served by delivering a copy of the summons to the person summoned, or by delivering a copy of the summons to some inmate of such person's usual place of abode apparently over sixteen years of age; and every person so required by any writing under the hand of any magistrate to attend and give evidence as aforesaid, shall be deemed to have been duly summoned. R.S.C., c. 176, s. 19.

Dismissal of  
charge.

**797.** Whenever the magistrate finds the offence not proved, he shall dismiss the charge, and make out and deliver to the person charged a certificate under his hand stating the fact of such dismissal. R.S.C., c. 176, s. 20.

Effect of con-  
viction.

**798.** Every conviction under this part shall have the same effect as a conviction upon indictment for the same offence. R.S.C., c. 176, s. 22.

Certificate of  
dismissal a  
bar to further  
proceeding.

**799.** Every person who obtains a certificate of dismissal or is convicted under the provisions of this part, shall be released from all further or other criminal proceedings for the same cause. R.S.C., c. 176, s. 23.

Proceedings  
not to be void  
for defect in  
form.

**800.** No conviction, sentence or proceeding under the provisions of this part shall be quashed for want of form; and no warrant of commitment upon a conviction shall be held void by reason of any defect therein, if it is therein alleged

alleged that the offender has been convicted, and there is a good and valid conviction to sustain the same. R.S.C., c. 176, s. 24.

**801.** The magistrate adjudicating under the provisions of this part shall transmit the conviction, or a duplicate of a certificate of dismissal, with the written charge, the depositions of witnesses for the prosecution and for the defence, and the statement of the accused, to the next court of General or Quarter Sessions of the Peace or to the court discharging the functions of a court of General or Quarter Sessions of the Peace, for the district, county or place, there to be kept by the proper officer among the records of the court. R.S.C., c. 176, s. 25.

Result of hearing to be filed in court of sessions.

**802.** A copy of such conviction, or of such certificate of dismissal, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction or dismissal for the offence mentioned therein, in any legal proceedings. R.S.C., c. 176, s. 26.

Evidence of conviction or dismissal.

**803.** The magistrate by whom any person has been convicted under the provisions of this part may order restitution of the property stolen, or taken or obtained by false pretenses, in any case in which the court before whom the person convicted would have been tried but for the provisions of this part, might by law order restitution. R.S.C., c. 176, s. 27.

Restitution of property.

**804.** Whenever any person is charged before any justice or justices of the peace, with any offence mentioned in section seven hundred and eighty-three, and in the opinion of such justice or justices the case is proper to be disposed of summarily by a magistrate, as herein provided, the justice or justices before whom such person is so charged may, if he or they see fit, remand such person for further examination before the nearest magistrate in like manner in all respects as a justice or justices are authorized to remand a person accused for trial at any court, under Part XLV., section five hundred and eighty-six; but no justice or justices of the peace, in any province, shall so remand any person for further examination or trial before any such magistrate in any other province. Any person so remanded for further examination before a magistrate in any city, may be examined and dealt with by any other magistrate in the same city. R.S.C., c. 176, ss. 28, 29 and 30.

Remand for further investigation.

**805.** If any person suffered to go at large, upon entering into such recognizance as the justice or justices are authorized, under Part XLV., section five hundred and eighty-seven, to take on the remand of a person accused, conditioned for his appearance before a magistrate, does not afterwards

Non appearance of accused under recognizance.



wards appear, pursuant to such recognizance, the magistrate before whom he should have appeared shall certify, under his hand on the back of the recognizance, to the clerk of the peace of the district, county or place, or other proper officer, as the case may be, the fact of such non-appearance, and such recognizance shall be proceeded upon in like manner as other recognizances; and such certificate shall be *prima facie* evidence of such non-appearance without proof of the signature of the magistrate thereto. R.S.C., c. 176, s. 31.

Application  
of fines.

**806.** Every fine and penalty imposed under the authority of this part shall be paid as follows, that is to say:—

(a.) In the province of Ontario, to the magistrate who imposed the same, or to the clerk of the court or clerk of the peace, as the case may be, to be paid over by him to the county treasurer for county purposes;

(b.) In any new district in the province of Quebec, to the sheriff of such district, as treasurer of the building and jury fund for such district, to form part of such fund,—and if in any other district in the said province, to the prothonotary of such district, to be applied by him, under the direction of the Lieutenant-Governor in Council, towards the keeping in repair of the court-house in such district, or to be added by him to the moneys and fees collected by him for the erection of a court-house and gaol in such district, so long as such fees are collected to defray the cost of such erection;

(c.) In the provinces of Nova Scotia and New Brunswick, to the county treasurer for county purposes; and

(d.) In the provinces of Prince Edward Island, Manitoba and British Columbia, to the treasurer of the province. R.S.C., c. 176, s. 32.

Forms to be  
used.

**807.** Every conviction or certificate may be in the form QQ, RR, or SS in schedule one hereto applicable to the case, or to the like effect; and whenever the nature of the case requires it, such forms may be altered by omitting the words stating the consent of the person to be tried before the magistrate, and by adding the requisite words, stating the fine imposed, if any, and the imprisonment, if any, to which the person convicted is to be subjected if the fine is not sooner paid. R.S.C., c. 176, s. 33.

Certain pro-  
visions not  
applicable to  
this part.

**808.** The provisions of this Act relating to preliminary inquiries before justices, except as mentioned in sections eight hundred and four and eight hundred and five and of Part LVIII., shall not apply to any proceedings under this part. Nothing in this part shall affect the provisions of Part LVI., and this part shall not extend to persons punishable under that part so far as regards offences for which such persons may be punished thereunder. R.S.C., c. 176, ss. 34 and 35.



## PART LVI.

## TRIAL OF JUVENILE OFFENDERS FOR INDICTABLE OFFENCES.

**809.** In this part, unless the context otherwise requires,— Definitions.

(a.) The expression "two or more justices," or "the justices" includes,—

(i.) in the provinces of Ontario and Manitoba any judge of the county court being a justice of the peace, police magistrate or stipendiary magistrate, or any two justices of the peace, acting within their respective jurisdictions;

(ii.) in the province of Quebec any two or more justices of the peace, the sheriff of any district, except Montreal and Quebec, the deputy sheriff of Gaspé, and any recorder, judge of the Sessions of the Peace, police magistrate, district magistrate or stipendiary magistrate acting within the limits of their respective jurisdictions;

(iii.) in the provinces of Nova Scotia, New Brunswick, Prince Edward Island, and British Columbia, and in the district of Keewatin, any functionary or tribunal invested by the proper legislative authority with power to do acts usually required to be done by two or more justices of the peace;

(iv.) in the North-west Territories, any judge of the Supreme Court of the said territories, any two justices of the peace sitting together, and any functionary or tribunal having the powers of two justices of the peace;

(b.) The expression "the common gaol or other place of confinement" includes any reformatory prison provided for the reception of juvenile offenders in the province in which the conviction referred to takes place, and to which, by the law of that province, the offender may be sent. R.S.C., c. 177, s. 2.

**810.** Every person charged with having committed, or having attempted to commit any offence which is theft, or punishable as theft, and whose age, at the period of the commission or attempted commission of such offence, does not, in the opinion of the justice before whom he is brought or appears, exceed the age of sixteen years, shall, upon conviction thereof in open court, upon his own confession or upon proof, before any two or more justices, be committed to the common gaol or other place of confinement within the jurisdiction of such justices, there to be imprisoned, with or without hard labour, for any term not exceeding three months, or, in the discretion of such justices, shall forfeit and pay such sum, not exceeding twenty dollars, as such justices adjudge. R.S.C., c. 177, s. 3.

Punishment  
for stealing.

Procuring appearance of accused.

**§11.** Whenever any person, whose age is alleged not to exceed sixteen years, is charged with any offence mentioned in the next preceding section, on the oath of a credible witness, before any justice of the peace, such justice may issue his summons or warrant, to summon or to apprehend the person so charged, to appear before any two justices of the peace, at a time and place to be named in such summons or warrant. R.S.C., c. 177, s. 4.

Remand of accused.

**§12.** Any justice of the peace, if he thinks fit, may remand for further examination or for trial, or suffer to go at large, upon his finding sufficient sureties, any such person charged before him with any such offence as aforesaid.

2. Every such surety shall be bound by recognizance conditioned for the appearance of such person before the same or some other justice or justices of the peace for further examination, or for trial before two or more justices of the peace as aforesaid, or for trial by indictment at the proper court of criminal jurisdiction, as the case may be.

3. Every such recognizance may be enlarged, from time to time, by any such justice or justices to such further time as he or they appoint; and every such recognizance not so enlarged shall be discharged without fee or reward, when the person has appeared according to the condition thereof. R.S.C., c. 177, ss. 5, 6 and 7.

Accused to elect how he shall be tried.

**§13.** The justices before whom any person is charged and proceeded against under the provision of this part before such person is asked whether he has any cause to show why he should not be convicted, shall say to the person so charged, these words, or words to the like effect:

"We shall have to hear what you wish to say in answer to the charge against you; but if you wish to be tried by a jury, you must object now to our deciding upon it at once."

2. And if such person, or a parent or guardian of such person, then objects, no further proceedings shall be had under the provisions of this part; but the justices may deal with the case according to the provision set out in Parts XLIV. and XLV., as if the accused were before them thereunder. R.S.C., c. 177, s. 8.

When accused shall not be tried summarily.

**§14.** If the justices are of opinion, before the person charged has made his defence, that the charge is, from any circumstance, a fit subject for prosecution by indictment, or if the person charged, upon being called upon to answer the charge, objects to the case being summarily disposed of under the provisions of this part, the justices shall not deal with it summarily, but may proceed to hold a preliminary inquiry as provided in Parts XLIV. and XLV.

2. In case the accused has elected to be tried by a jury, the justices shall state in the warrant of commitment the fact of such election having been made. R.S.C., c. 177, s. 9.

**815.** Any justice of the peace may, by summons, require the attendance of any person as a witness upon the hearing of any case before two justices, under the authority of this part, at a time and place to be named in such summons. R.S.C., c. 177, s. 10. Summons to witness.

**816.** Any such justice may require and bind by recognizance every person whom he considers necessary to be examined, touching the matter of such charge, to attend at the time and place appointed by him and then and there to give evidence upon the hearing of such charge. R.S.C., c. 177, s. 11. Binding over witness.

**817.** If any person so summoned or required or bound, as aforesaid, neglects or refuses to attend in pursuance of such summons or recognizance, and if proof is given of such person having been duly summoned, as hereinafter mentioned, or bound by recognizance, as aforesaid, either of the justices before whom any such person should have attended, may issue a warrant to compel his appearance as a witness. R.S.C., c. 177, s. 12. Warrant against witness.

**818.** Every summons issued under the authority of this part may be served by delivering a copy thereof to the person, or to some inmate, apparently over sixteen years of age, at such person's usual place of abode, and every person so required by any writing under the hand or hands of any justice or justices to attend and give evidence as aforesaid, shall be deemed to have been duly summoned. R.S.C., c. 177, s. 13. Service of summons.

**819.** If the justices, upon the hearing of any such case deem the offence not proved, or that it is not expedient to inflict any punishment, they shall dismiss the person charged,—in the latter case on his finding sureties for his future good behaviour, and in the former case without sureties, and then make out and deliver to the person charged a certificate in the form TT in schedule one to this Act, or to the like effect, under the hands of such justices, stating the fact of such dismissal. R.S.C., c. 177, s. 14. Discharge of accused.

**820.** The justices before whom any person is summarily convicted of any offence hereinbefore mentioned, may cause the conviction to be drawn up in the form UU in schedule one hereto, or in any other form to the same effect, and the conviction shall be good and effectual to all intents and purposes. Form of conviction.

2. No such conviction shall be quashed for want of form, or be removed by *certiorari* or otherwise into any court of record; and no warrant of commitment shall be held void by reason of any defect therein, if it is therein alleged that

the person has been convicted, and there is a good and valid conviction to sustain the same. R.S.C., c. 177, ss. 16 and 17.

Further proceeding barred.

**821.** Every person who obtains such certificate of dismissal, or is so convicted, shall be released from all further or other criminal proceedings for the same cause. R.S.C., c. 177, s. 15.

Conviction and recognizances to be filed.

**822.** The justices before whom any person is convicted under the provisions of this part shall forthwith transmit the conviction and recognizances to the clerk of the peace or other proper officer, for the district, city, county or union of counties wherein the offence was committed, there to be kept by the proper officer among the records of the court of General or Quarter Sessions of the Peace, or of any other court discharging the functions of a court of General or Quarter Sessions of the Peace. R.S.C., c. 177, s. 18.

Quarterly returns.

**823.** Every clerk of the peace, or other proper officer, shall transmit to the Minister of Agriculture a quarterly return of the names, offences and punishments mentioned in the convictions, with such other particulars as are, from time to time, required. R.S.C., c. 177, s. 19.

Restitution of property.

**824.** No conviction under the authority of this part shall be attended with any forfeiture, except such penalty as is imposed by the sentence; but whenever any person is adjudged guilty under the provisions of this part, the presiding justice may order restitution of property in respect of which the offence was committed, to the owner thereof or his representatives.

2. If such property is not then forthcoming, the justices, whether they award punishment or not, may inquire into and ascertain the value thereof in money; and, if they think proper, order payment of such sum of money to the true owner, by the person convicted, either at one time or by instalments, at such periods as the justices deem reasonable.

3. The person ordered to pay such sum may be sued for the same as a debt in any court in which debts of the like amount are, by law, recoverable, with costs of suit, according to the practice of such court. R.S.C., c. 177, ss. 20, 21 and 22.

Proceedings when penalty imposed on accused is not paid.

**825.** Whenever the justices adjudge any offender to forfeit and pay a pecuniary penalty under the authority of this part, and such penalty is not forthwith paid they may, if they deem it expedient, appoint some future day for the payment thereof, and order the offender to be detained in safe custody until the day so appointed, unless such offender gives security to the satisfaction of the justices, for his appearance on such day; and the justice may take such security by way of recognizance or otherwise in their discretion.



2. If at any time so appointed such penalty has not been paid, the same or any other justices of the peace may, by warrant under their hands and seals, commit the offender to the common gaol or other place of confinement within their jurisdiction, there to remain for any time not exceeding three months, reckoned from the day of such adjudication. R.S.C., c. 177, ss. 23 and 24.

**826.** The justices before whom any person is prosecuted Costs. or tried for any offence cognizable under this part may, in their discretion, at the request of the prosecutor or of any other person who appears on recognizance or summons to prosecute or give evidence against such person, order payment to the prosecutor and witnesses for the prosecution, of such sums as to them seem reasonable and sufficient, to reimburse such prosecutor and witnesses for the expenses they have severally incurred in attending before them, and in otherwise carrying on such prosecution, and also to compensate them for their trouble and loss of time therein, — and may order payment to the constables and other peace officers for the apprehension and detention of any person so charged.

2. The justices may, although no conviction takes place, order all or any of the payments aforesaid to be made, when they are of opinion that the persons, or any of them, have acted in good faith. R.S.C., c. 177, ss. 25 and 26.

**827.** Every fine imposed under the authority of this part shall be paid and applied as follows, that is to say :— Application of fines.

(a.) In the province of Ontario to the justices who impose the same or the clerk of the county court, or the clerk of the peace, or other proper officer, as the case may be, to be by him or them paid over to the county treasurer for county purposes ;

(b.) In any new district in the province of Quebec to the sheriff of such district as treasurer of the building and jury fund for such district to form part of such fund, and in any other district in the province of Quebec to the prothonotary of such district, to be applied by him, under the direction of the Lieutenant-Governor in Council, towards the keeping in repair of the court-house in such district or to be added by him to the moneys or fees collected by him for the erection of a court-house or gaol in such district, so long as such fees are collected to defray the cost of such erection ;

(c.) In the provinces of Nova Scotia and New Brunswick to the county treasurer, for county purposes ; and

(d.) In the provinces of Prince Edward Island, Manitoba and British Columbia to the treasurer of the province. R.S.C., c. 177, s. 27.

**828.** The amount of expenses of attending before the justices and the compensation for trouble and loss of time therein, and the allowances to the constables and other peace Costs to be certified by justices. officers

officers for the apprehension and detention of the offender, and the allowances to be paid to the prosecutor, witnesses and constables for attending at the trial or examination of the offender, shall be ascertained by and certified under the hands of such justices; but the amount of the costs, charges and expenses attending any such prosecution, to be allowed and paid as aforesaid, shall not in any one case exceed the sum of eight dollars.

2. Every such order of payment to any prosecutor or other person, after the amount thereof has been certified by the proper justices of the peace as aforesaid, shall be forthwith made out and delivered by the said justices or one of them, or by the clerk of the peace or other proper officer, as the case may be, to such prosecutor or other person, upon such clerk or officer being paid his lawful fee for the same, and shall be made upon the officer to whom fines imposed under the authority of this part are required to be paid over in the district, city, county or union of counties in which the offence was committed, or was supposed to have been committed, who, upon sight of every such order, shall forthwith pay to the person named therein, or to any other person duly authorized to receive the same on his behalf, out of any moneys received by him under this part, the money in such order mentioned, and he shall be allowed the same in his accounts of such moneys. R.S.C., c. 177, ss. 28 and 29.

Application of  
this part.

**829.** The provisions of this part shall not apply to any offence committed in the provinces of Prince Edward Island or British Columbia, or the district of Keewatin, punishable by imprisonment for two years and upwards; and in such provinces and district it shall not be necessary to transmit any recognizance to the clerk of the peace or other proper officer. R.C.S., c. 177, s. 30.

No imprison-  
ment in re-  
formatory  
under this  
part.

**830.** The provisions of this part shall not authorize two or more justices of the peace to sentence offenders to imprisonment in a reformatory in the province of Ontario. R.S.C., c. 177, s. 31.

Other pro-  
ceedings  
against ju-  
venile offen-  
ders not af-  
fected.

**831.** Nothing in this part shall prevent the summary conviction of any person who may be tried thereunder before one or more justices of the peace, for any offence for which he is liable to be so convicted under any other part of this Act or under any other Act. R.S.C., c. 177, s. 8, part.

#### PART LVII.

#### COSTS AND PECUNIARY COMPENSATION—RESTITUTION OF PROPERTY.

Costs.

**832.** Any court by which and any judge under Part LIV. or magistrate under LV. by whom judgment is pronounced  
or

or recorded, upon the conviction of any person for treason or any indictable offence, in addition to such sentence as may otherwise by law be passed, may condemn such person to the payment of the whole or any part of the costs or expenses incurred in and about the prosecution and conviction for the offence of which he is convicted, if to such court it seems fit so to do; and the payment of such costs and expenses, or any part thereof, may be ordered by the court to be made out of any moneys taken from such person on his apprehension (if such moneys are his own), or may be enforced at the instance of any person liable to pay or who has paid the same in such and the same manner (subject to the provisions of this Act) as the payment of any costs ordered to be paid by the judgment or order of any court of competent jurisdiction in any civil action or proceeding may for the time being be enforced: Provided, that in the meantime, and until the recovery of such costs and expenses from the person so convicted as aforesaid, or from his estate, the same shall be paid and provided for in the same manner as if this section had not been passed; and any money which is recovered in respect thereof from the person so convicted, or from his estate, shall be applicable to the reimbursement of any person or fund by whom or out of which such costs and expenses have been paid or defrayed. 33-34 V. (U. K.) c. 23, s. 3.

**833.** In the case of an indictment or information by a private prosecutor for the publication of a defamatory libel if judgment is given for the defendant, he shall be entitled to recover from the prosecutor the costs incurred by him by reason of such indictment or information either by warrant of distress issued out of the said court, or by action or suit as for an ordinary debt. R.S.C., c. 174, ss. 153 and 154. Costs in case of libel.

**834.** If a person convicted on an indictment for assault, whether with or without battery and wounding, is ordered to pay costs as provided in section eight hundred and thirty-two he shall be liable unless the said costs are sooner paid, to three months' imprisonment, in addition to the term of imprisonment, if any, to which he is sentenced for the offence, and the court may, by warrant in writing, order the amount of such costs to be levied by distress and sale of the goods and chattels of the offender, and paid to the prosecutor, and the surplus, if any, arising from such sale, to the owner; and if such sum is so levied, the offender shall be released from such imprisonment. R.S.C., c. 174, ss. 248 and 249. Costs on conviction for assault.

**835.** Any costs ordered to be paid by a court pursuant to the foregoing provisions shall, in case there is no tariff of fees provided with respect to criminal proceedings, be taxed by the proper officer of the court according to the lowest scale of fees allowed in such court in a civil suit. Taxation of costs.

2. If such court has no civil jurisdiction, the fees shall be those allowed in civil suits in a superior court of the province according to the lowest scale.

Compensation  
for loss of  
property.

**§36.** A court on the trial of any person on an indictment may, if it thinks fit, upon the application of any person aggrieved and immediately after the conviction of the offender, award any sum of money, not exceeding one thousand dollars, by way of satisfaction or compensation for any loss of property suffered by the applicant through or by means of the offence of which such person is so convicted; and the amount awarded for such satisfaction or compensation shall be deemed a judgment debt due to the person entitled to receive the same from the person so convicted, and the order for payment of such amount may be enforced in such and the same manner as in the case of any costs ordered by the court to be paid under section eight hundred and thirty-two. 33-34 V. (U.K.) c. 23, s. 4.

Compensation  
to *bona fide*  
purchaser of  
stolen pro-  
perty.

**§37.** When any prisoner has been convicted, either summarily or otherwise, of any theft or other offence, including the stealing or unlawfully obtaining any property, and it appears to the court, by the evidence, that the prisoner sold such property or part of it to any person who had no knowledge that it was stolen or unlawfully obtained, and that money has been taken from the prisoner on his apprehension, the court may, on application of such purchaser and on restitution of the property to its owner, order that out of the money so taken from the prisoner (if it is his) a sum not exceeding the amount of the proceeds of the sale be delivered to such purchaser. R.S.C., c. 174, s. 251.

Restitution of  
stolen pro-  
perty.

**§38.** If any person who is guilty of any indictable offence in stealing, or knowingly receiving, any property, is indicted for such offence, by or on behalf of the owner of the property, or his executor or administrator, and convicted thereof, or is tried before a judge or justice for such offence under any of the foregoing provisions and convicted thereof, the property shall be restored to the owner or his representative.

2. In every such case, the court or tribunal before which such person is tried for any such offence, shall have power to award, from time to time, writs of restitution for the said property or to order the restitution thereof in a summary manner; and the court or tribunal may also, if it sees fit, award restitution of the property taken from the prosecutor, or any witness for the prosecution, by such offence although the person indicted is not convicted thereof if the jury declares, as it may do, or if, in case the offender is tried without a jury it is proved to the satisfaction of the court or tribunal by whom he is tried, that such property belongs to such prosecutor or witness, and that he was unlawfully deprived of it by such offence.



3. If it appears before any award or order is made, that any valuable security has been *bonâ fide* paid or discharged by any person liable to the payment thereof, or being a negotiable instrument, has been *bonâ fide* taken or received by transfer or delivery, by any person, for a just and valuable consideration, without any notice or without any reasonable cause to suspect that the same had, by any indictable offence, been stolen, or if it appears that the property stolen has been transferred to an innocent purchaser for value who has acquired a lawful title thereto, the court or tribunal shall not award or order the restitution of such security or property.

4. Nothing in this section contained shall apply to the case of any prosecution of any trustee, banker, merchant, attorney, factor, broker or other agent intrusted with the possession of goods or documents of title to goods, for any indictable offence under sections three hundred and eighteen or three hundred and sixty-one of this Act. R.S.C., c. 174, s. 250.

#### PART LVIII.

#### SUMMARY CONVICTIONS.

**839.** In this part, unless the context otherwise requires — Interpretation.

(a.) the expression "justice" means a justice of the peace and includes two or more justices if two or more justices act or have jurisdiction, and also a police magistrate, a stipendiary magistrate and any person having the power or authority of two or more justices of the peace;

(b.) the expression "clerk of the peace" includes the proper officer of the court having jurisdiction in appeal under this part, as provided by section eight hundred and seventy-nine;

(c.) the expression "territorial division" means district, county, union of counties, township, city, town, parish or other judicial division or place;

(d.) the expression "district" or "county" includes any territorial or judicial division or place in and for which there is such judge, justice, justice's court, officer or prison as is mentioned in the context;

(e.) the expression "common gaol" or "prison" means any place other than a penitentiary in which persons charged with offences are usually kept and detained in custody. R.S.C., c. 178, s. 2.

**840.** Subject to any special provision otherwise enacted Application.  
with respect to such offence, act or matter, this part shall apply to —

(a.) every case in which any person commits, or is suspected of having committed, any offence or act over which the Parliament of Canada has legislative authority, and for which

which such person is liable, on summary conviction, to imprisonment, fine, penalty or other punishment ;

(b.) every case in which a complaint is made to any justice in relation to any matter over which the Parliament of Canada has legislative authority, and with respect to which such justice has authority by law to make any order for the payment of money or otherwise. R. S. C., c. 178, s. 3.

Time within which proceedings shall be commenced.

**§41.** In the case of any offence punishable on summary conviction if no time is specially limited for making any complaint, or laying any information in the Act or law relating to the particular case, the complaint shall be made, or the information shall be laid within six months from the time when the matter of complaint or information arose, except in the North-west Territories, where the time within which such complaint may be made, or such information may be laid, shall be extended to twelve months from the time when the matter of the complaint or information arose. 52 V., c. 45, s. 5.

Jurisdiction.

**§42.** Every complaint and information shall be heard, tried, determined and adjudged by one justice or two or more justices as directed by the Act or law upon which the complaint or information is framed or by any other Act or law in that behalf.

2. If there is no such direction in any Act or law then the complaint or information may be heard, tried, determined and adjudged by any one justice for the territorial division where the matter of the complaint or information arose : Provided that every one who aids, abets, counsels or procures the commission of any offence punishable on summary conviction, may be proceeded against and convicted either in the territorial division or place where the principal offender may be convicted, or in that in which the offence of aiding, abetting, counselling or procuring was committed.

3. Any one justice may receive the information or complaint, and grant a summons or warrant thereon, and issue his summons or warrant to compel the attendance of any witnesses for either party, and do all other acts and matters necessary preliminary to the hearing, even if by the statute in that behalf it is provided that the information or complaint shall be heard and determined by two or more justices.

4. After a case has been heard and determined one justice may issue all warrants of distress or commitment thereon.

5. It shall not be necessary for the justice who acts before or after the hearing to be the justice or one of the justices by whom the case is to be or was heard and determined.

6. If it is required by any Act or law that an information or complaint shall be heard and determined by two or more justices, or that a conviction or order shall be made by two

or

or more justices, such justices shall be present and acting together during the whole of the hearing and determination of the case.

8. No justice shall hear and determine any case of assault or battery, in which any question arises as to the title to any lands, tenements, hereditaments, or any interest therein or accruing therefrom, or as to any bankruptcy or insolvency, or any execution under the process of any court of justice. R.S.C., c. 178, ss. 4, 5, 6, 7, 8, 9, 12 and 73.

**843.** The provisions of Parts XLIV. and XLV. of this Act relating to compelling the appearance of the accused before the justice receiving an information under section five hundred and fifty-eight and the provisions respecting the attendance of witnesses on a preliminary inquiry and the taking of evidence thereon, shall, so far as the same are applicable, except as varied by the sections immediately following, apply to any hearing under the provisions of this part: Provided that whenever a warrant is issued in the first instance against a person charged with an offence punishable under the provisions of this part, the justice issuing it shall furnish a copy or copies thereof, and cause a copy to be served on the person arrested at the time of such arrest. Hearing before justices.

2. Nothing herein contained shall oblige any justice to issue any summons to procure the attendance of a person charged with an offence by information laid before such justice whenever the application for any order may, by law, be made *ex parte*. R.S.C., c. 178, ss. 13 to 17 and 21.

**844.** The provisions of section five hundred and sixty-five relating to the endorsement of warrants shall apply to the case of any warrant issued under the provisions of this part against the accused, whether before or after conviction, and whether for the apprehension or imprisonment of any such person. R.S.C., c. 178, s. 22; 52 V., c. 45, s. 4. Backing warrants.

**845.** It shall not be necessary that any complaint upon which a justice may make an order for the payment of money or otherwise shall be in writing, unless it is so required by some particular Act or law upon which such complaint is founded. Informations and complaints.

2. Every complaint upon which a justice is authorized by law to make an order, and every information for any offence or act punishable on summary conviction, may, unless it is herein or by some particular Act or law otherwise provided, be made or had without any oath or affirmation as to the truth thereof.

3. Every complaint shall be for one matter of complaint only, and not for two or more matters of complaint, and every information shall be for one offence only, and not for two or more offences; and every complaint or information may be laid or made by the complainant or informant in person,

person, or by his counsel or attorney or other person authorized in that behalf. R.S.C., c. 178, ss. 23, 24 and 26.

Certain objections not to vitiate proceedings.

**S46.** No information, complaint, warrant, conviction or other proceeding under this part shall be deemed objectionable or insufficient on any of the following grounds; that is to say:

(a.) that it does not contain the name of the person injured, or intended or attempted to be injured; or

(b.) that it does not state who is the owner of any property therein mentioned; or

(c.) that it does not specify the means by which the offence was committed; or

(d.) that it does not name or describe with precision any person or thing:

Provided that the justice may, if satisfied that it is necessary for a fair trial, order that a particular further describing such means, person, place or thing be furnished by the prosecutor.

Variance.

**S47.** No objection shall be allowed to any information, complaint, summons or warrant for any alleged defect therein, in substance or in form, or for any variance between such information, complaint, summons or warrant and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint.

2. Any variance between the information for any offence or act punishable on summary conviction and the evidence adduced in support thereof as to the time at which such offence or act is alleged to have been committed, shall not be deemed material if it is proved that such information was, in fact, laid within the time limited by law for laying the same.

3. Any variance between the information and the evidence adduced in support thereof, as to the place in which the offence or act is alleged to have been committed, shall not be deemed material if the offence or act is proved to have been committed within the jurisdiction of the justice by whom the information is heard and determined.

4. If any such variance, or any other variance between the information, complaint, summons or warrant, and the evidence adduced in support thereof, appears to the justice present and acting at the hearing to be such that the defendant has been thereby deceived or misled, the justice may, upon such terms as he thinks fit, adjourn the hearing of the case to some future day. R.S.C., c. 178, s. 28.

Execution of warrant.

**S48.** A summons may be issued to procure the attendance, on the hearing of any charge under the provisions of this part, of a witness who resides out of the jurisdiction of the justices before whom such charge is to be heard, and such summons and a warrant issued to procure the attendance



ance of a witness, whether in consequence of refusal by such witness to appear in obedience to a summons or otherwise, may be respectively served and executed by the constable or other peace officer to whom the same is delivered or by any other person, as well beyond as within the territorial division of the justice who issued the same. 51 V., c. 45, ss. 1 and 3.

**849.** The room or place in which the justice sits to hear and try any complaint or information shall be deemed an open and public court, to which the public generally may have access so far as the same can conveniently contain them. R.S.C., c. 178, s. 33. Hearing to be in open court.

**850.** The person against whom the complaint is made or information laid shall be admitted to make his full answer and defence thereto, and to have the witnesses examined and cross-examined by counsel or attorney on his behalf. Counsel for parties.

2. Every complainant or informant in any such case shall be at liberty to conduct the complaint or information, and to have the witnesses examined and cross-examined, by counsel or attorney on his behalf. R.S.C., c. 178, ss. 34 and 35.

**851.** Every witness at any hearing shall be examined upon oath or affirmation, and the justice before whom any witness appears for the purpose of being examined shall have full power and authority to administer to every witness the usual oath or affirmation. R.S.C., c. 178, s. 47. Witnesses to be on oath.

**852.** If the information or complaint in any case negatives any exemption, exception, proviso or condition in the statute on which the same is founded it shall not be necessary for the prosecutor or complainant to prove such negative, but the defendant may prove the affirmative thereof in his defence if he wishes to avail himself of the same. R. S. C., c. 178, s. 38. Evidence.

**853.** In case the accused does not appear at the time and place appointed by any summons issued by a justice on information before him of the commission of an offence punishable on summary conviction then, if it appears to the satisfaction of the justice that the summons was duly served a reasonable time before the time appointed for appearance, such justice may proceed *ex parte* to hear and determine the case in the absence of the defendant, as fully and effectually, to all intents and purposes, as if the defendant had personally appeared in obedience to such summons, or the justice, may, if he thinks fit, issue his warrant as provided by section five hundred and sixty of this Act and adjourn the hearing of the complaint or information until the defendant is apprehended. R.S.C., c. 178, s. 39. Notice of presence of accused.

Non-appearance of prosecutor.

**854.** If, upon the day and at the place so appointed, the defendant appears voluntarily in obedience to the summons in that behalf served upon him, or is brought before the justice by virtue of a warrant, then, if the complainant or informant, having had due notice, does not appear by himself, his counsel or attorney, the justice shall dismiss the complaint or information unless he thinks proper to adjourn the hearing of the same until some other day upon such terms as he thinks fit. R.S.C., c. 178, s. 41.

Proceedings when both parties appear

**855.** If both parties appear, either personally or by their respective counsel or attorneys, before the justice who is to hear and determine the complaint or information such justice shall proceed to hear and determine the same. R.S.C., c. 178, s. 42.

Arraignment of accused.

**856.** If the defendant is present at the hearing the substance of the information or complaint shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted, or why an order should not be made against him, as the case may be.

2. If the defendant thereupon admits the truth of the information or complaint, and shows no sufficient cause why he should not be convicted, or why an order should not be made against him, as the case may be, the justice present at the hearing shall convict him or make an order against him accordingly.

3. If the defendant does not admit the truth of the information or complaint, the justice shall proceed to inquire into the charge and for the purposes of such inquiry shall take the evidence of witnesses both for the complainant and accused in the manner provided by Part XLV. in the case of a preliminary inquiry : Provided that the prosecutor or complainant is not entitled to give evidence in reply if the defendant has not adduced any evidence other than as to his general character; provided further, that in a hearing under this section the witnesses need not sign their depositions. R.S.C., c. 178, ss. 43, 44 and 45.

Adjournment.

**857.** Before or during the hearing of any information or complaint the justice may, in his discretion adjourn the hearing of the same to a certain time or place to be then appointed and stated in the presence and hearing of the party or parties, or of their respective solicitors or agents then present, but no such adjournment shall be for more than eight days.

2. If, at the time and place to which the hearing or further hearing is adjourned, either or both of the parties do not appear, personally or by his or their counsel or solicitors respectively, before the justice or such other justice as shall then be there, the justice who is then there may proceed to the hearing or further hearing as if the party or parties were present.

3. If the prosecutor or complainant does not appear the justice may dismiss the information, with or without costs as to him seems fit.

4. Whenever any justice adjourns the hearing of any case he may suffer the defendant to go at large or may commit him to the common gaol or other prison within the territorial division for which such justice is then acting, or to such other safe custody as such justice thinks fit, or may discharge the defendant upon his recognizance, with or without sureties at the discretion of such justice, conditioned for his appearance at the time and place to which such hearing or further hearing is adjourned.

5. Whenever any defendant who is discharged upon recognizance, or allowed to go at large, does not appear at the time mentioned in the recognizance or to which the hearing or further hearing is adjourned the justice may issue his warrant for his apprehension. R.S.C., c. 178, ss. 48, 49, 50 and 51.

**858.** The justice, having heard what each party has to say, and the witnesses and evidence adduced, shall consider the whole matter, and, unless otherwise provided, determine the same and convict or make an order against the defendant, or dismiss the information or complaint, as the case may be. R.S.C., c. 178, s. 52. Adjudication by justice.

**859.** If the justice convicts or makes an order against the defendant a minute or memorandum thereof shall then be made, for which no fee shall be paid, and the conviction or order shall afterwards be drawn up by the justice on parchment or on paper, under his hand and seal, in such one of the forms of conviction or of orders from VV to AAA inclusive in schedule one to this Act as is applicable to the case or to the like effect. R.S.C., c. 178, s. 53. Form of conviction.

**860.** When several persons join in the commission of the same offence, and upon conviction thereof each is adjudged to pay a penalty which includes the value of the property, or the amount of the injury done, no further sum shall be paid to the person aggrieved than such amount or value, and costs, if any, and the residue of the penalties imposed shall be applied in the same manner as other penalties imposed by a justice are directed to be applied. R.S.C., c. 178, s. 54. Disposal of penalties on conviction of joint offenders.

**861.** Whenever any person is summarily convicted before a justice of any offence against Parts XX. to XXX. inclusive or Part XXXVII. of this Act and it is a first conviction, the justice may, if he thinks fit, discharge the offender from his conviction upon his making such satisfaction to the person aggrieved, for damages and costs, or either of them, as are ascertained by the justice. R.S.C., c. 178, s. 55. First conviction in certain cases.

Certificate of  
dismissal.

**862.** If the justice dismisses the information or complaint he may, when required so to do, make an order of dismissal in the form BBB in schedule one hereto, and he shall give the defendant a certificate in the form CCC in the said schedule, which certificate, upon being afterwards produced, shall, without further proof, be a bar to any subsequent information or complaint for the same matter, against the same defendant. R.S.C., c. 178, s. 56.

Disobedience  
to order of  
justice.

**863.** Whenever, by any Act or law, authority is given to commit a person to prison, or to levy any sum upon his goods or chattels by distress, for not obeying an order of a justice, the defendant shall be served with a copy of the minute of the order before any warrant of commitment or of distress is issued in that behalf; and the order or minute shall not form any part of the warrant of commitment or of distress. R.S.C., c. 178, s. 57.

Assaults

**864.** Whenever any person unlawfully assaults or beats any other person, any justice may summarily hear and determine the charge, unless at the time of entering upon the investigation the person aggrieved or the person accused objects thereto.

2. If such justice is of opinion that the assault or battery complained of is, from any other circumstance, a fit subject for prosecution by indictment, he shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as if he had no authority finally to hear and determine the same. R.S.C., c. 178, s. 73.

Dismissal of  
complaint for  
assault.

**865.** If the justice, upon the hearing of any case of assault or battery upon the merits where the complaint is preferred by or on behalf of the person aggrieved, under the next preceding section, deems the offence not to be proved, or finds the assault or battery to have been justified, or so trifling as not to merit any punishment, and accordingly dismisses the complaint, he shall forthwith make out a certificate under his hand stating the fact of such dismissal, and shall deliver such certificate to the person against whom the complaint was preferred. R.S.C., c. 178, s. 74.

Release from  
further pro-  
ceedings.

**866.** If the person against whom any such complaint has been preferred, by or on the behalf of the person aggrieved, obtains such certificate, or, having been convicted, pays the whole amount adjudged to be paid or suffers the imprisonment, or imprisonment with hard labour, awarded, he shall be released from all further or other proceedings, civil or criminal, for the same cause. R.S.C., c. 178, s. 75.

Costs on con-  
viction or  
order.

**867.** In every case of a summary conviction, or of an order made by a justice, such justice may, in his discretion, award and order in and by the conviction or order that the defend-  
ant



ant shall pay to the prosecutor or complainant such costs as to the said justice seem reasonable in that behalf, and not inconsistent with the fees established by law to be taken on proceedings had by and before justices. R.S.C., c. 178, s. 58.

**868.** Whenever the justice, instead of convicting or making an order, dismisses the information or complaint, he may, in his discretion, in and by his order of dismissal, award and order that the prosecutor or complainant shall pay to the defendant such costs as to the said justice seem reasonable and consistent with law. R.S.C., c. 178, s. 59.

Cost on dismissal.

**869.** The sums so allowed for costs shall, in all cases, be specified in the conviction or order, or order of dismissal, and the same shall be recoverable in the same manner and under the same warrants as any penalty, adjudged to be paid by the conviction or order, is to be recovered. R.S.C., c. 178, s. 60.

Recovery of costs when penalty is adjudged.

**870.** Whenever there is no such penalty to be recovered such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of distress, by imprisonment, with or without hard labour, for any term not exceeding one month. R.S.C., c. 178, s. 61.

Recovery of costs in other cases.

**871.** The fees mentioned in the following tariff and no others shall be and constitute the fees to be taken on proceedings before justices in proceedings under this part:—

Fees.

*Fees to be taken by Justices of the Peace or their Clerks.*

	§ cts.
1. Information or complaint and warrant or summons .....	0 50
2. Warrant where summons issued in first instance	0 10
3. Each necessary copy of summons or warrant.....	0 10
4. Each summons or warrant to or for a witness or witnesses. (Only one summons on each side to be charged for in each case, which may contain any number of names. If the justice of the case requires it, additional summonses shall be issued without charge).....	0 10
5. Information for warrant for witness and warrant.	0 50
6. Each necessary copy of summons or warrant for witness.....	0 10
7. For every recognizance.....	0 25
8. For hearing and determining case.....	0 50
9. If case lasts over two hours.....	1 00
10. Where one justice alone cannot lawfully hear and determine the case, the same fee for hearing and determining to be allowed to the associate justice.	
11. For each warrant of distress or commitment.....	0 25
18	12.

	\$	cts.
12. For making up record of conviction or order where the same is ordered to be returned to sessions or on <i>certiorari</i> .....	1	00
But in all cases which admit of a summary proceeding before a single justice and wherein no higher penalty than \$20 can be imposed, there shall be charged for the record of conviction not more than.....	0	50
13. For copy of any other paper connected with any case, and the minutes of the same if demanded, per folio of 100 words.....	0	05
14. For every bill of costs when demanded to be made out in detail.....	0	10
(Items 13 and 14 to be chargeable only when there has been an adjudication.)		

*Constables' Fees.*

1. Arrest of each individual upon a warrant.....	1	00
2. Serving summons.....	0	25
3. Mileage to serve summons or warrant, per mile (one way) necessarily travelled.....	0	10
4. Same mileage when service cannot be effected, but only upon proof of due diligence.		
5. Mileage taking prisoner to gaol, exclusive of disbursements necessarily expended in his conveyance.....	0	10
7. Attending justices on trial in one or more cases, per hour..	0	25
8. Mileage travelled to attend trial (when public conveyance can be taken only reasonable disbursements to be allowed) one way per mile..	0	10
9. Serving warrant of distress and returning same..	1	00
10. Advertising under warrant of distress.....	1	00
11. Travelling to make distress or to search for goods to make distress, when no goods are found (one way) per mile.....	0	10
12. Appraisements, whether by one appraiser or more, 2 cents in the dollar on the value of the goods.		
13. Commission on sale and delivery of goods, 5 cents in the dollar on the net produce of the goods.		
52 V., c. 45, s. 2 and Sch.		

*Witnesses' Fees.*

1. Each day attending trial.....	0	75
2. Mileage travelled to attend trial (one way) per mile.....	0	10

Provisions  
respecting  
convictions.

**872.** Whenever a conviction adjudges a pecuniary penalty or compensation to be paid, or an order requires the payment of a sum of money, whether the Act or law authorizing such conviction or order does or does not provide a mode of

of raising or levying the penalty, compensation or sum of money, or of enforcing the payment thereof, the justice by his conviction, or order after adjudging payment of such penalty, compensation or sum of money, with or without costs, may order and adjudge—

(a.) that in default of payment thereof forthwith, or within a limited time, such penalty, compensation or sum of money shall be levied by distress and sale of the goods and chattels of the defendant, and, if sufficient distress cannot be found, that the defendant be imprisoned in the common gaol or other prison of the territorial division for which the justice is then acting, in the manner and for the time directed by the Act or law authorizing such conviction or order or by this Act, or for any period not exceeding three months, if the Act or law authorizing the conviction or order does not specify imprisonment, or does not specify any term of imprisonment, unless such penalty, compensation or sum of money and costs, if the conviction or order is made with costs, and the expenses of the distress and of conveying the defendant to gaol are sooner paid ; or

(b.) that in default of payment of the said penalty, compensation or sum of money, and costs if any forthwith or within a limited time, the defendant be imprisoned in the common gaol or other prison of the said territorial division in the manner and for the time mentioned in the said Act or law, or for any period not exceeding three months, if the Act or law authorizing the conviction or order does not specify imprisonment, or does not specify any term of imprisonment, unless the said sums with the like costs and expenses are sooner paid.

2. The justice making the conviction or order mentioned in the paragraph lettered (a) of subsection one of this section may issue a warrant of distress in the form DDD or EEE, as the case requires ; and in the case of a conviction or order under the paragraph lettered (b) of the said subsection, a warrant in one of the forms FFF or GGG may issue ;

(a.) If a warrant of distress is issued and the constable or peace officer charged with the execution thereof returns (form III) that he can find no goods or chattels whereon to levy thereunder, the justice may issue a warrant of commitment in the form JJJ.

3. Where by virtue of an Act or law so authorizing the justice by his conviction adjudges against the defendant payment of a penalty or compensation, and also imprisonment, as punishment for an offence, he may, if he thinks fit, order that the imprisonment in default of distress or of payment, as provided for in this section, shall commence at the expiration of the imprisonment awarded as a punishment for the offence.

4. The like proceeding may be had upon any conviction or order made as provided by this section as if the Act or law  
authorizing

authorizing the same had expressly provided for a conviction or order in the above terms. R.S.C., c. 178, ss. 62, 66, 67 and 68.

Order as to  
collection of  
costs.

**873.** When any information or complaint is dismissed with costs the justice may issue a warrant of distress on the goods and chattels of the prosecutor or complainant, in the form KKK, for the amount of such costs; and, in default of distress, a warrant of commitment in the form LLL may issue: Provided that the term of imprisonment in such case shall not exceed one month. R.S.C., c. 178, s. 70.

Endorsement  
of warrant of  
distress.

**874.** If after delivery of any warrant of distress issued under this part to the constable or constables to whom the same has been directed to be executed, sufficient distress cannot be found within the limits of the jurisdiction of the justice granting the warrant, then upon proof being made upon oath or affirmation of the handwriting of the justice granting the warrant, before any justice of any other territorial division, such justice shall thereupon make an endorsement on the warrant, signed with his hand, authorizing the execution of the warrant within the limits of his jurisdiction, by virtue of which warrant and endorsement the penalty or sum and costs, or so much thereof as has not been before levied or paid, shall be levied by the person bringing the warrant, or by the person or persons to whom the warrant was originally directed, or by any constable or other peace officer of the last mentioned territorial division, by distress and sale of the goods and chattels of the defendant therein.

2. Such endorsement shall be in the form HHH in schedule one to this Act. R.S.C., c. 178, s. 63.

Distress not  
to issue in  
certain cases.

**875.** Whenever it appears to any justice that the issuing of a distress warrant would be ruinous to the defendant and his family, or whenever it appears to the justice, by the confession of the defendant or otherwise, that he has no goods and chattels whereon to levy such distress, then the justice, if he deems it fit, instead of issuing a warrant of distress, may commit the defendant to the common gaol or other prison in the territorial division, there to be imprisoned, with or without hard labour, for the time and in the manner he would have been committed in case such warrant of distress had issued and no sufficient distress had been found. R.S.C., c. 178, s. 64.

Remand of  
defendant  
when distress  
is ordered.

**876.** Whenever a justice issues a warrant of distress as hereinbefore provided, he may suffer the defendant to go at large, or verbally, or by a written warrant in that behalf, may order the defendant to be kept and detained in safe custody, until return has been made to the warrant of distress, unless the defendant gives sufficient security, by recognizance or otherwise, to the satisfaction of the justice, for his appearance,



ance, at the time and place appointed for the return of the warrant of distress, before him or before such other justice for the same territorial division as shall then be there. R.S.C., c. 178, s. 65.

**877.** Whenever a justice, upon any information or complaint, adjudges the defendant to be imprisoned, and the defendant is then in prison undergoing imprisonment upon conviction for any other offence, the warrant of commitment for the subsequent offence shall be forthwith delivered to the gaoler or other officer to whom it is directed; and the justice who issued the same, if he thinks fit, may award and order therein that the imprisonment for the subsequent offence shall commence at the expiration of the imprisonment to which the defendant was previously sentenced. R.S.C., c. 178, s. 69. Cumulative punishment.

**878.** Whenever a defendant gives security by or is discharged upon recognizance and does not afterwards appear at the time and place mentioned in the recognizance, the justice who took the recognizance, or any justice who is then present, having certified upon the back of the recognizance the non-appearance of the defendant, may transmit such recognizance to the proper officer in the province appointed by law to receive the same, to be proceeded upon in like manner as other recognizances; and such certificate shall be *prima facie* evidence of the non-appearance of the said defendant. Recognizances.

2. Such certificate shall be in the form MMM in schedule one to this Act. The proper officer to whom the recognizance and certificate of default are to be transmitted, in the province of Ontario, shall be the clerk of the peace of the county for which such justice is acting, except in the district of Nipissing as to which district the proper officer shall be the clerk of the peace for the county of Renfrew; and the Court of General Sessions of the Peace for such county shall, at its then next sitting, order all such recognizances to be forfeited and estreated, and the same shall be enforced and collected in the same manner and subject to the same conditions as any fines, forfeitures or amercements imposed by or forfeited before such court; and in the other provinces of Canada, the proper officer to whom any such recognizance and certificate shall be transmitted, shall be the officer to whom like recognizances have been heretofore accustomed to be transmitted under the law in force before the passing of this Act; and such recognizances shall be enforced and collected in the same manner as like recognizances have heretofore been enforced and collected. R.S.C., c. 178, ss. 71 and 72.

**879.** Unless it is otherwise provided in any special Act Appar.  
under which a conviction takes place or an order is made  
by a justice for the payment of money or dismissing an  
information

information or complaint, any person who thinks himself aggrieved by any such conviction or order, the prosecutor or complainant, as well as the defendant, may appeal, in the province of Ontario, to the Court of General Sessions of the Peace; in the province of Quebec, to the Court of Queen's Bench, Crown side; in the provinces of Nova Scotia, New Brunswick and Manitoba, to the county court of the district or county where the cause of the information or complaint arose; in the province of Prince Edward Island, to the Supreme Court; in the province of British Columbia, to the county or district court, at the sitting thereof which shall be held nearest to the place where the cause of the information or complaint arose; and in the North-west Territories, to a judge of the Supreme Court of the said territories, sitting without a jury, at the place where the cause of the information or complaint arose, or the nearest place thereto where a court is appointed to be held.

2. In the district of Nipissing such person may appeal to the Court of General Sessions of the Peace for the county of Renfrew. 51 V., c. 45, s. 7; 52 V., c. 45, s. 6.

Conditions of  
appeal.

**880.** Every right of appeal shall, unless it is otherwise provided in any special Act, be subject to the conditions following, that is to say:—

(a.) If the conviction or order is made more than fourteen days before the sittings of the court to which the appeal is given, such appeal shall be made to the then next sittings of such court; but if the conviction or order is made within fourteen days of the sittings of such court, then to the second sittings next after such conviction or order;

(b.) The appellant shall give to the respondent, or to the justice who tried the case for him, a notice in writing, in the form NNN in schedule one to this Act, of such appeal, within ten days after such conviction or order;

(c.) The appellant, if the appeal is from a conviction adjudging imprisonment, shall either remain in custody until the holding of the court to which the appeal is given, or shall enter into a recognizance in the form OOO in the said schedule with two sufficient sureties, before a justice, conditioned personally to appear at the said court, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as are awarded by the court; or, if the appeal is against any conviction or order, whereby only a penalty or sum of money is adjudged to be paid, the appellant (although the order directs imprisonment in default of payment), instead of remaining in custody as aforesaid, or giving such recognizance as aforesaid, may deposit with the justice convicting or making the order such sum of money as such justice deems sufficient to cover the sum so adjudged to be paid, together with the costs of the conviction or order, and the costs of the appeal; and upon such recognizance being given, or such deposit being made, the justice  
before

before whom such recognizance is entered into, or deposit made, shall liberate such person, if in custody;

(*d.*) In case of an appeal from the order of a justice, pursuant to section five hundred and seventy-one, for the restoration of gold or gold-bearing quartz, or silver or silver ore, the appellant shall give security by recognizance to the value of the said property to prosecute his appeal at the next sittings of the court and to pay such costs as are awarded against him;

(*e.*) The court to which such appeal is made shall thereupon hear and determine the matter of appeal and make such order therein, with or without costs to either party, including costs of the court below, as seems meet to the court,—and, in case of the dismissal of an appeal by the defendant and the affirmation of the conviction or order, shall order and adjudge the appellant to be punished according to the conviction or to pay the amount adjudged by the said order, and to pay such costs as are awarded,—and shall, if necessary issue process for enforcing the judgment of the court; and whenever, after any such deposit has been made as aforesaid, the conviction or order is affirmed, the court may order the sum thereby adjudged to be paid, together with the costs of the conviction or order, and the costs of the appeal, to be paid out of the money deposited, and the residue, if any, to be repaid to the appellant; and whenever, after any such deposit, the conviction or order is quashed, the court shall order the money to be repaid to the appellant;

(*f.*) The said court shall have power, if necessary, from time to time, by order endorsed on the conviction or order, to adjourn the hearing of the appeal from one sittings to another, or others, of the said court;

(*g.*) Whenever any conviction or order is quashed on appeal, as aforesaid, the clerk of the peace or other proper officer shall forthwith endorse on the conviction or order a memorandum that the same has been quashed; and whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall, when certified under the hand of the clerk of the peace, or of the proper officer having the custody of the same, be sufficient evidence, in all courts and for all purposes, that the conviction or order has been quashed. 51 V., c. 45, s. 8; 53 V., c. 37, s. 24.

**881.** When an appeal against any summary conviction or decision has been lodged in due form, and in compliance with the requirements of this part the court appealed to shall try, and shall be the absolute judge, as well of the facts as of the law, in respect to such conviction or decision; and any of the parties to the appeal may call witnesses and adduce evidence, whether such witnesses were called or evidence adduced at the hearing before the justice or not, either as to the credibility of any witness, or as to any other fact material

Proceeding  
on appeal



terial to the inquiry ; but any evidence taken before the justice at the hearing below, signed by the witness giving the same and certified by the justice, may be read on such appeal, and shall have the like force and effect as if the witness was there examined : Provided, that the court appealed to is satisfied by affidavit or otherwise, that the personal presence of the witness cannot be obtained by any reasonable efforts. 53 V., c. 37, s. 25.

Appeal on  
matters of  
form.

**882.** No judgment shall be given in favour of the appellant if the appeal is based on an objection to any information, complaint or summons, or to any warrant to apprehend a defendant issued upon any such information, complaint or summons, for any alleged defect therein, in substance or in form, or for any variance between such information, complaint, summons or warrant and the evidence adduced in support thereof at the hearing of such information or complaint, unless it is proved before the court hearing the appeal that such objection was made before the justice before whom the case was tried and by whom such conviction, judgment or decision was given, or unless it is proved that notwithstanding it was shown to such justice that by such variance the person summoned and appearing or apprehended had been deceived or misled, such justice refused to adjourn the hearing of the case to some further day, as herein provided. R.S.C., c. 178, s. 79.

Judgment to  
be upon the  
merits.

**883.** In every case of appeal from any summary conviction or order had or made before any justice, the court to which such appeal is made shall, notwithstanding any defect in such conviction or order, and notwithstanding that the punishment imposed or the order made may be in excess of that which might lawfully have been imposed or made, hear and determine the charge or complaint on which such conviction or order has been had or made, upon the merits, and may confirm, reverse or modify the decision of such justice, or may make such other conviction or order in the matter as the court thinks just, and may by such order exercise any power which the justice whose decision is appealed from might have exercised, and such conviction or order shall have the same effect and may be enforced in the same manner as if it had been made by such justice. The court may also make such order as to costs to be paid by either party as it thinks fit.

2. Any conviction or order made by the court on appeal may also be enforced by process of the court itself. 53 V., c. 37, s. 26.

Costs when  
appeal not  
prosecuted.

**884.** The court to which an appeal is made, upon proof of notice of the appeal to such court having been given to the person entitled to receive the same, though such appeal was not afterwards prosecuted or entered, may, if such appeal



peal has not been abandoned according to law, at the same sittings for which such notice was given, order to the party or parties receiving the same such costs and charges as are thought reasonable and just by the court, to be paid by the party or parties giving such notice; and such costs shall be recoverable in the manner provided by this Act for the recovery of costs upon an appeal against an order or conviction. R.S.C., c. 178, s. 81.

**885.** If an appeal against a conviction or order is decided in favour of the respondents, the justice who made the conviction or order, or any other justice for the same territorial division, may issue the warrant of distress or commitment for execution of the same, as if no appeal had been brought. R.S.C., c. 178, s. 82.

Proceedings when appeal fails.

**886.** No conviction or order affirmed, or affirmed and amended, in appeal, shall be quashed for want of form, or be removed by *certiorari* into any superior court and no warrant or commitment shall be held void by reason of any defect therein, provided it is therein alleged that the defendant has been convicted, and there is a good and valid conviction to sustain the same. R.S.C., c. 178, s. 83.

Conviction not to be quashed for defects of form.

**887.** No writ of *certiorari* shall be allowed to remove any conviction or order had or made before any justice of the peace if the defendant has appealed from such conviction or order to any court to which an appeal from such conviction or order is authorized by law, or shall be allowed to remove any conviction or order made upon such appeal. R.S.C., c. 178, s. 84.

*Certiorari* not to lie when appeal is taken.

**888.** Every justice before whom any person is summarily tried, shall transmit the conviction or order to the court to which the appeal is herein given, in and for the district, county or place wherein the offence is alleged to have been committed, before the time when an appeal from such conviction or order may be heard, there to be kept by the proper officer among the records of the court; and if such conviction or order has been appealed against, and a deposit of money made, such justice shall return the deposit into the said court; and the conviction or order shall be presumed not to have been appealed against, until the contrary is shown.

Conviction to be transmitted to appeal court.

2. Upon any indictment or information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence. R.S.C., c. 178, s. 86; 51 V., c. 45, s. 9.

**889.** No conviction or order made by any justice of the peace and no warrant for enforcing the same, shall, on being

Conviction not to be held invalid for irregularity

being removed by *certiorari* be held invalid for any irregularity, informality or insufficiency therein, provided that the court or judge before which or whom the question is raised is, upon perusal of the depositions, satisfied that an offence of the nature described in the conviction, order or warrant, has been committed, over which such justice has jurisdiction, and that the punishment imposed is not in excess of that which might have been lawfully imposed for the said offence; and any statement which, under this Act or otherwise, would be sufficient if contained in a conviction, shall also be sufficient if contained in an information, summons, order or warrant: Provided that the court or judge, where so satisfied as aforesaid, shall, even if the punishment imposed or the order made is in excess of that which might lawfully have been imposed or made, have the like powers in all respects to deal with the case as seems just as are by section eight hundred and eighty-three conferred upon the court to which an appeal is taken under the provisions of section eight hundred and seventy-nine R.S.C., c. 178, s. 87; 53 V., c. 37, s. 27.

Irregularities within the preceding section.

**§90.** The following matters amongst others shall be held to be within the provisions of the next preceding section:—

(a.) The statement of the adjudication, or of any other matter or thing, in the past tense instead of in the present;

(b.) The punishment imposed being less than the punishment by law assigned to the offence stated in the conviction or order, or to the offence which appears by the depositions to have been committed;

(c.) The omission to negative circumstances, the existence of which would make the act complained of lawful, whether such circumstances are stated by way of exception or otherwise in the section under which the offence is laid, or are stated in another section.

2. But nothing in this section contained shall be construed to restrict the generality of the wording of the next preceding section. R.S.C., c. 178, s. 88

Protection of justice whose conviction is quashed.

**§91.** If an application is made to quash a conviction or order made by a justice, on the ground that such justice has exceeded his jurisdiction, the court or judge to which or whom the application is made, may, as a condition of quashing the same, if the court or judge thinks fit so to do, provide that no action shall be brought against the justice who made the conviction, or against any officer acting under any warrant issued to enforce such conviction or order. R.S.C., c. 178, s. 89.

Condition of hearing motion to quash.

**§92.** The court having authority to quash any conviction, order or other proceeding by or before a justice may prescribe by general order that no motion to quash any conviction, order or other proceeding by or before a justice and brought before such court by *certiorari*, shall be entertained unless the defendant

defendant is shown to have entered into a recognizance with one or more sufficient sureties, before a justice or justices of the county or place within which such conviction or order has been made, or before a judge or other officer, as may be prescribed by such general order, or to have made a deposit to be prescribed in like manner, with a condition to prosecute such writ of *certiorari* at his own costs and charges, with effect, without any wilful or affected delay, and, if ordered so to do, to pay the person in whose favour the conviction, order or other proceeding is affirmed, his full costs and charges to be taxed according to the course of the court where such conviction, order or proceeding is affirmed. R.S.C., c. 178, s. 90.

**893.** The second section of the Act of the Parliament of the United Kingdom, passed in the fifth year of the reign of His Majesty King George the Second, and chaptered nineteen, shall no longer apply to any conviction, order or other proceeding by or before a justice in Canada, but the next preceding section of this Act shall be substituted therefor, and the like proceedings may be had for enforcing the condition of a recognizance taken under the said section as might be had for enforcing the condition of a recognizance taken under the said Act of the Parliament of the United Kingdom. R.S.C., c. 178, s. 91.

Imperial Act superseded.

**894.** No order, conviction or other proceeding shall be quashed or set aside, and no defendant shall be discharged, by reason of any objection that evidence has not been given of a proclamation or order of the Governor in Council, or of any rules, regulations, or by-laws made by the Governor in Council in pursuance of a statute of Canada, or of the publication of such proclamation, order, rules, regulations or by-laws in the *Canada Gazette*; but such proclamation, order, rules, regulations and by-laws and the publication thereof shall be judicially noticed. 51 V., c. 45, s. 10.

Judicial notice of proclamation.

**895.** If a motion or rule to quash a conviction, order or other proceeding is refused or discharged, it shall not be necessary to issue a writ of *procedendo*, but the order of the court refusing or discharging the application shall be a sufficient authority for the registrar or other officer of the court forthwith to return the conviction, order and proceedings to the court or justice from which or whom they were removed, and for proceedings to be taken thereon for the enforcement thereof, as if a *procedendo* had issued, which shall forthwith be done. R.S.C., c. 178, s. 93.

Refused to quash.

**896.** Whenever it appears by the conviction that the defendant has appeared and pleaded, and the merits have been tried, and the defendant has not appealed against the conviction, where an appeal is allowed, or if appealed against, the conviction

Conviction not to be set aside in certain cases.



conviction has been affirmed, such conviction shall not afterwards be set aside or vacated in consequence of any defect of form whatever, but the construction shall be such a fair and liberal construction as will be agreeable to the justice of the case. R.S.C., c. 178, s. 94.

Order as to  
costs.

**897.** If upon any appeal the court trying the appeal orders either party to pay costs, the order shall direct the costs to be paid to the clerk of the peace or other proper officer of the court, to be paid over by him to the person entitled to the same, and shall state within what time the costs shall be paid. R.S.C., c. 178, s. 95.

Recovery of  
costs.

**898.** If such costs are not paid within the time so limited, and the person ordered to pay the same has not been bound by any recognizance conditioned to pay such costs, the clerk of the peace or his deputy, on application of the person entitled to the costs, or of any person on his behalf, and on payment of any fee to which he is entitled, shall grant to the person so applying, a certificate that the costs have not been paid; and upon production of the certificate to any justice in and for the same territorial division, such justice may enforce the payment of the costs by warrant of distress in manner aforesaid, and in default of distress may commit the person against whom the warrant has issued in manner hereinbefore mentioned, for any term not exceeding one month, unless the amount of the costs and all costs and charges of the distress and also the costs of the commitment and conveying of the party to prison, if the justice thinks fit so to order (the amount thereof being ascertained and stated in the commitment), are sooner paid. The said certificate shall be in the form PPP and the warrants of distress and commitment in the forms QQQ and RRR respectively in schedule one to this Act. R.S.C., c. 178, s. 96.

Abandonment  
of appeal.

**899.** An appellant may abandon his appeal by giving to the opposite party notice in writing of his intention six clear days before the sitting of the court appealed to, and thereupon the costs of the appeal shall be added to the sum if any adjudged against the appellant by the conviction or order, and the justice shall proceed on the conviction or order as if there had been no appeal. R.S.O. (1887), c. 74, s. 8.

Statement of  
case by jus-  
tices for  
review.

**900.** In this section the expression "the court" means and includes any superior court of criminal jurisdiction for the province in which the proceedings herein referred to are carried on.

2. Any person aggrieved, the prosecutor or complainant as well as the defendant, who desires to question a conviction, order, determination or other proceeding of a justice under this part, on the ground that it is erroneous in point of law, or is in excess of jurisdiction, may apply to such justice to  
state



state and sign a case setting forth the facts of the case and the grounds on which the proceeding is questioned, and if the justice declines to state the case, may apply to the court for an order requiring the case to be stated.

3. The application shall be made and the case stated within such time and in such manner as is, from time to time, directed by rules or orders under section five hundred and thirty-three of this Act.

4. The appellant at the time of making such application, and before a case is stated and delivered to him by the justice, shall in every instance, enter into a recognizance before such justice or any other justice exercising the same jurisdiction, with or without surety or sureties, and in such sum as to the justice seems meet, conditioned to prosecute his appeal without delay, and to submit to the judgment of the court and pay such costs as are awarded by the same; and the appellant shall, at the same time, and before he shall be entitled to have the case delivered to him, pay to the justice such fees as he is entitled to; and the appellant, if then in custody, shall be liberated upon the recognizance being further conditioned for his appearance before the same justice, or such other justice as is then sitting, within ten days after the judgment of the court has been given, to abide such judgment, unless the judgment appealed against is reversed.

5. If the justice is of opinion that the application is merely frivolous, but not otherwise, he may refuse to state a case, and shall on the request of the applicant sign and deliver to him a certificate of such refusal; provided that the justice shall not refuse to state a case where the application for that purpose is made to him by or under the direction of Her Majesty's Attorney-General of Canada, or of any province.

6. Where the justice refuses to state a case, it shall be lawful for the appellant to apply to the court, upon an affidavit of the facts, for a rule calling upon the justice, and also upon the respondent, to show cause why such case should not be stated; and such court may make such rule absolute, or discharge the application, with or without payment of costs, as to the court seems meet; and the justice upon being served with such rule absolute, shall state a case accordingly, upon the appellant entering into such recognizance as hereinbefore provided.

7. The court to which a case is transmitted under the foregoing provisions shall hear and determine the question or questions of law arising thereon, and shall thereupon affirm, reverse or modify the conviction, order or determination in respect of which the case has been stated, or remit the matter to the justice with the opinion of the court thereon, and may make such other order in relation to the matter, and such orders as to costs, as to the court seems fit; and all such orders shall be final and conclusive upon all parties: Provided always, that any justice who states and delivers a case in pursuance of this section shall not be liable to any costs

costs in respect or by reason of such appeal against his determination.

8. The court for the opinion of which a case is stated shall have power, if it thinks fit, to cause the case to be sent back for amendment; and thereupon the same shall be amended accordingly, and judgment shall be delivered after it has been amended.

9. The authority and jurisdiction hereby vested in the court for the opinion of which a case is stated may, subject to any rules and orders of court in relation thereto, be exercised by a judge of such court sitting in chambers, and as well in vacation as in term time.

10. After the decision of the court in relation to any such case stated for their opinion, the justice in relation to whose determination the case has been stated, or any other justice exercising the same jurisdiction, shall have the same authority to enforce any conviction, order or determination which has been affirmed, amended or made by such court as the justice who originally decided the case would have had to enforce his determination if the same had not been appealed against; and no action or proceeding shall be commenced or had against a justice for enforcing such conviction, order or determination by reason of any defect in the same.

11. If the court deems it necessary or expedient any order of the court may be enforced by its own process.

12. No writ of *certiorari* or other writ shall be required for the removal of any conviction, order or other determination in relation to which a case is stated under this section or otherwise, for obtaining the judgment or determination of a superior court on such case under this section.

13. In all cases where the conditions, or any of them, in any recognizance entered into in pursuance of this section have not been complied with, such recognizance shall be dealt with in like manner as is provided by section eight hundred and seventy-eight with respect to recognizances entered into thereunder.

14. Any person who appeals under the provisions of this section against any determination of a justice from which he is entitled to an appeal under section eight hundred and seventy-nine of this Act, shall be taken to have abandoned such last mentioned right of appeal finally and conclusively and to all intents and purposes.

15. Where, by any special Act, it is provided that there shall be no appeal from any conviction or order, no proceedings shall be taken under this section in any case to which such provision in such special Act applies. 53 V., c. 37, s. 28.

Tender and  
payment.

**901.** Whenever a warrant of distress has issued against any person, and such person pays or tenders to the peace officer having the execution of the same, the sum or sums in the warrant mentioned, together with the amount of the expenses of the distress up to the time of payment or tender, the

the peace officer shall cease to execute the same. R.S.C., c. 198, s. 97.

2. Whenever any person is imprisoned for non-payment of any penalty or other sum, he may pay or cause to be paid to the keeper of the prison in which he is imprisoned, the sum in the warrant of commitment mentioned, together with the amount of the costs and charges and expenses therein also mentioned, and the keeper shall receive the same, and shall thereupon discharge the person, if he is in his custody for no other matter. He shall also forthwith pay over any moneys so received by him to the justice who issued the warrant. R.S.C., c. 198, s. 98.

**902.** Every justice shall, quarterly, on or before the second Tuesday in each of the months of March, June, September and December in each year, make to the clerk of the peace or other proper officer of the court having jurisdiction in appeal, as herein provided, a return in writing, under his hand, of all convictions made by him, and of the receipt and application by him of the moneys received from the defendants,—which return shall include all convictions and other matters not included in some previous return, and shall be in the form SSS in schedule one to this Act.

Returns respecting convictions and moneys received.

2. If two or more justices are present, and join in the conviction, they shall make a joint return.

3. In the province of Prince Edward Island such return shall be made to the clerk of the court of assize of the county in which the convictions are made, and on or before the fourteenth day next before the sitting of the said court next after such convictions are so made.

4. Every such return shall be made in the said district of Nipissing, in the province of Ontario, to the clerk of the peace for the county of Renfrew, in the said province. R.S.C., c. 178, s. 99.

5. Every justice, to whom any such moneys are afterwards paid, shall make a return of the receipts and application thereof, to the court having jurisdiction in appeal as hereinbefore provided,—which return shall be filed by the clerk of the peace or the proper officer of such court with the records of his office. R.S.C., c. 178, s. 100.

6. Every justice, before whom any such conviction takes place or who receives any such moneys, who neglects or refuses to make such return thereof, or wilfully makes a false, partial or incorrect return, or wilfully receives a larger amount of fees than by law he is authorized to receive, shall incur a penalty of eighty dollars, together with costs of suit, in the discretion of the court, which may be recovered by any person who sues for the same by action of debt or information in any court of record in the province in which such return ought to have been or is made. R.S.C., c. 178, s. 101.

7. One moiety of such penalty shall belong to the person suing, and the other moiety to Her Majesty, for the public uses of Canada.

Publication,  
&c., of re-  
turns.

**903.** The clerk of the peace of the district or county in which any such returns are made, or the proper officer, other than the clerk of the peace, to whom such returns are made, shall, within seven days after the adjournment of the next ensuing General or Quarter Sessions, or of the term or sitting of such other court as aforesaid, cause the said returns to be posted up in the court-house of the district or county, and also in a conspicuous place in the office of such clerk of the peace, or other proper officer, for public inspection, and the same shall continue to be so posted up and exhibited until the end of the next ensuing General or Quarter Sessions of the Peace, or of the term or sitting of such other court as aforesaid; and for every schedule so made and exhibited by such clerk or officer, he shall be allowed such fee as is fixed by competent authority. R.S.C., c. 178, s. 103.

2. Such clerk of the peace or other officer of each district or county, within twenty days after the end of each General or Quarter Sessions of the Peace, or the sitting of such court as aforesaid, shall transmit to the Minister of Finance and Receiver General a true copy of all such returns made within his district or county. R.S.C., c. 178, s. 104.

Prosecutions  
for penalties  
under the pre-  
ceding section.

**904.** All actions for penalties arising under the provisions of section nine hundred and two shall be commenced within six months next after the cause of action accrues, and the same shall be tried in the district, county or place wherein such penalties have been incurred; and if a verdict or judgment passes for the defendant, or the plaintiff becomes non-suit, or discontinues the action after issue joined, or if, upon demurrer or otherwise, judgment is given against the plaintiff, the defendant shall, in the discretion of the court, recover his costs of suit, as between solicitor and client, and shall have the like remedy for the same as any defendant has by law in other cases. R.S.C., c. 178, s. 102.

Remedies  
saved.

**905.** Nothing in the three sections next preceding shall have the effect of preventing any person aggrieved from prosecuting, by indictment, any justice, for any offence, the commission of which would subject him to indictment at the time of the coming into force of this Act. R.S.C., c. 178, s. 105.

Defective re-  
turns.

**906.** No return purporting to be made by any justice under this Act shall be vitiated by the fact of its including, by mistake, any convictions or orders had or made before him in any matter over which any Provincial Legislature has exclusive jurisdiction, or with respect to which he acted under the authority of any provincial law. R.C.S., c. 178, s. 106.



**907.** No information, summons, conviction, order or other proceeding shall be held to charge two offences, or shall be held to be uncertain on account of its stating the offence to have been committed in different modes, or in respect of one or other of several articles, either conjunctively or disjunctively; for example, in charging an offence under section five hundred and eight of this Act it may be alleged that "the defendant unlawfully did cut, break, root up and otherwise destroy or damage a tree, sapling or shrub"; and it shall not be necessary to define more particularly the nature of the act done, or to state whether such act was done in respect of a tree, or a sapling, or a shrub. R.S.C., c. 178, s. 107.

Certain defects not to vitiate proceedings.

**908.** Every judge of Sessions of the Peace, chairman of the court of General Sessions of the Peace, police magistrate, district magistrate or stipendiary magistrate, shall have such and like powers and authority to preserve order in the said courts during the holding thereof, and by the like ways and means as now by law are or may be exercised and used in like cases and for the like purposes by any court in Canada, or by the judges thereof, during the sittings thereof. R.S.C., c. 178, s. 109.

Preserving order in court.

**909.** Every judge of the Sessions of the Peace, chairman of the court of General Sessions of the Peace, police magistrate, district magistrate or stipendiary magistrate, whenever any resistance is offered to the execution of any summons, warrant of execution or other process issued by him, may enforce the due execution of the same by the means provided by the law for enforcing the execution of the process of other courts in like cases. R.S.C., c. 178, s. 110.

Resistance to execution of process.

#### PART LIX.

#### RECOGNIZANCES.

**910.** Any surety for any person charged with any indictable offence may, upon affidavit showing the grounds therefor, with a certified copy of the recognizance, obtain from a judge of a superior court or from a judge of a county court having criminal jurisdiction, or in the province of Quebec from a district magistrate, an order in writing under his hand, to render such person to the common gaol of the county where the offence is to be tried.

Render of accused by surety.

2. The sureties, under such order, may arrest such person and deliver him, with the order, to the gaoler named therein, who shall receive and imprison him in the said gaol, and shall be charged with the keeping of such person until he is discharged by due course of law. R.S.C., c. 179, ss. 1 and 2.

Bail after  
render.

**911.** The person rendered may apply to a judge of a superior court, or in cases in which a judge of a county court may admit to bail, to a judge of a county court, to be again admitted to bail, who may on examination allow or refuse the same, and make such order as to the number of the sureties and the amount of recognizance as he deems meet,—which order shall be dealt with in the same manner as the first order for bail, and so on as often as the case requires. R.S.C., c. 179, s. 3.

Discharge of  
recognizance.

**912.** On due proof of such render, and certificate of the sheriff, proved by the affidavit of a subscribing witness, that such person has been so rendered, a judge of the superior or county court, as the case may be, shall order an entry of such render to be made on the recognizance by the officer in charge thereof, which shall vacate the recognizance, and may be pleaded or alleged in discharge thereof. R.S.C., c. 179, s. 4.

Render in  
court.

**913.** The sureties may bring the person charged as aforesaid into the court at which he is bound to appear, during the sitting thereof, and then, by leave of the court, render him in discharge of such recognizance at any time before trial, and such person shall be committed to gaol, there to remain until discharged by due course of law ; but such court may admit such person to bail for his appearance at any time it deems meet. R.S.C., c. 179, s. 5.

Sureties not  
discharged by  
arraignment  
or conviction.

**914.** The arraignment or conviction of any person charged and bound as aforesaid, shall not discharge the recognizance, but the same shall be effectual for his appearance for trial or sentence, as the case may be ; nevertheless the court may commit such person to gaol upon his arraignment or trial, or may require new or additional sureties for his appearance for trial or sentence, as the case may be, notwithstanding such recognizance ; and such commitment shall be a discharge of the sureties. R.S.C., c. 179, s. 6.

Right of su-  
rety to render  
not affected.

**915.** Nothing in the foregoing provisions shall limit or restrict any right which a surety now has of taking and rendering to custody any person charged with any such offence, and for whom he is such surety. R.S.C., c. 179, s. 7.

Entry of fines,  
&c., on record  
and recovery  
thereof.

**916.** Unless otherwise provided, all fines, issues, amercements and forfeited recognizances, the disposal of which is within the legislative authority of the Parliament of Canada, set, imposed, lost or forfeited before any court of criminal jurisdiction shall, within twenty-one days after the adjournment of such court be fairly entered and extracted on a roll by the clerk of the court, or in case of his death or absence, by any other person, under the direction of the judge who presided at such court, which roll shall be made in duplicate and

and signed by the clerk of the court, or in case of his death or absence, by such judge.

2. If such court is a superior court of criminal jurisdiction one of such rolls shall be filed with the clerk, prothonotary, registrar or other proper officer—

(a.) in the province of Ontario, of a division of the High Court of Justice;

(b.) in the provinces of Nova Scotia, New Brunswick and British Columbia, of the Supreme Court of the province;

(c.) in the province of Prince Edward Island, of the Supreme Court of Judicature of that province;

(d.) in the province of Manitoba, of the Court of Queen's Bench of that province; and

(e.) in the North-west Territories, of the Supreme Court of the said territories,—

on or before the first day of the term next succeeding the court by or before which such fines or forfeitures were imposed or forfeited.

3. If such court is a court of General Sessions of the Peace, or a county court, one of such rolls shall remain deposited in the office of the clerk of such court.

4. The other of such rolls shall, as soon as the same is prepared, be sent by the clerk of the court making the same, or in case of his death or absence, by such judge as aforesaid, with a writ of *fiery facias* and *capias*, according to the form TTT in schedule one to this Act, to the sheriff of the county in and for which such court was holden; and such writ shall be authority to the sheriff for proceeding to the immediate levying and recovering of such fines, issues, amercements and forfeited recognizances, on the goods and chattels, lands and tenements of the several persons named therein, or for taking into custody the bodies of such persons respectively, in case sufficient goods and chattels, lands or tenements cannot be found, whereof the sums required can be made; and every person so taken shall be lodged in the common gaol of the county, until satisfaction is made, or until the court into which such writ is returnable, upon cause shown by the party, as hereinafter mentioned, makes an order in the case, and until such order has been fully complied with.

5. The clerk of the court shall, at the foot of each roll made out as herein directed, make and take an affidavit in the following form, that is to say:

“ I, A. B. (*describing his office*), make oath that this roll is  
 “ truly and carefully made up and examined, and that all  
 “ fines, issues, amercements, recognizances and forfeitures  
 “ which were set, lost, imposed or forfeited, at or by the  
 “ court therein mentioned, and which, in right and due  
 “ course of law, ought to be levied and paid, are, to the  
 “ best of my knowledge and understanding, inserted in  
 “ the said roll; and that in the said roll are also contained  
 “ and expressed all such fines as have been paid to or  
 “ received by me, either in court or otherwise, without any  
 “ wilful

“ wilful discharge, omission, misnomer or defect whatsoever. So help me God ; ”

Which oath any justice of the peace for the county is hereby authorized to administer. R.S.C., c. 179, ss. 8, 9 and 15.

Officer to prepare lists of persons under recognizance making default.

**917.** If any person bound by recognizance for his appearance (or for whose appearance any other person has become so bound) to prosecute or give evidence on the trial of any indictable offence, or to answer for any common assault, or to articles of the peace, makes default, the officer of the court by whom the estreats are made out, shall prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which such person, or his surety, was so bound, together with the residence, trade, profession or calling of every such person and surety,—and shall, in such list, distinguish the principals from the sureties, and shall state the cause, if known, why each such person did not appear, and whether, by reason of the non-appearance of such person, the ends of justice have been defeated or delayed. R.S.C., c. 179, s. 10.

Proceeding on forfeited recognizance not to be taken except on order of judge, &c.

**918.** Every such officer shall, before any such recognizance is estreated, lay such list before the judge or one of the judges who presided at the court, or if such court was not presided over by a judge, before two justices of the peace who attended at such court, and such judge or justices shall examine such list, and make such order touching the estreating or putting in process any such recognizance as appears just, subject, in the province of Quebec, to the provisions hereinafter contained ; and no officer of any such court shall estreat or put in process any such recognizance without the written order of the judge or justices of the peace before whom respectively such list has been laid. R.S.C., c. 179, s. 11.

Recognizance need not be estreated in certain cases.

**919.** Except in the cases of persons bound by recognizance for their appearance, or for whose appearance any other person has become bound to prosecute or give evidence on the trial of any indictable offence, or to answer for any common assault, or to articles of the peace, in every case of default whereby a recognizance becomes forfeited, if the cause of absence is made known to the court in which the person was bound to appear, the court, on consideration of such cause, and considering also, whether, by the non-appearance of such person the ends of justice have been defeated or delayed, may forbear to order the recognizance to be estreated ; and, with respect to all recognizances estreated, if it appears to the satisfaction of the judge who presided at such court that the absence of any person for whose appearance any recognizance was entered into, was owing to circumstances which rendered such absence justifiable, such judge may make an order directing that the sum forfeited upon such estreated recognizance shall not be levied.



2. The clerk of the court shall, for such purpose, before sending to the sheriff any roll, with a writ of *feri facias* and *capias*, as directed by section nine hundred and sixteen, submit the same to the judge who presided at the court, and such judge may make a minute on the said roll and writ of any such forfeited recognizances and fines as he thinks fit to direct not to be levied; and the sheriff shall observe the direction in such minute written upon such roll and writ, or endorsed thereon, and shall forbear accordingly to levy any such forfeited recognizance or fine. R.S.C., c. 179, ss. 12 and 13.

**920.** If upon any writ issued under section nine hundred and sixteen, the sheriff takes lands or tenements in execution, he shall advertise the same in like manner as he is required to do before the sale of lands in execution in other cases; and no sale shall take place in less than twelve months from the time the writ came to the hands of the sheriff. R.S.C., c. 179, s. 14.

Sale of lands  
by sheriff  
under estreat-  
ed recogni-  
zance.

**921.** If any person on whose goods and chattels a sheriff, bailiff or other officer is authorized to levy any such forfeited recognizance, gives security to the said sheriff or other officer for his appearance at the return day mentioned in the writ, in the court into which such writ is returnable, then and there to abide the decision of such court, and also to pay such forfeited recognizance, or sum of money to be paid in lieu or satisfaction thereof, together with all such expenses as are adjudged and ordered by the court, such sheriff or officer shall discharge such person out of custody, and if such person does not appear in pursuance of his undertaking, the court may forthwith issue a writ of *feri facias* and *capias* against such person and the surety or sureties of the person so bound as aforesaid. R.S.C., c. 179, s. 16.

Discharge  
from custody  
on giving  
security.

**922.** The court, into which any writ of *feri facias* and *capias* issued under the provisions of this part is returnable, may inquire into the circumstances of the case, and may in its discretion, order the discharge of the whole of the forfeited recognizance, or sum of money paid or to be paid in lieu or satisfaction thereof, and make such order thereon as to such court appears just; and such order shall accordingly be a discharge to the sheriff, or to the party, according to the circumstances of the case. R.S.C., c. 179, s. 17.

Discharge of  
forfeited  
recognizance

**923.** The sheriff, to whom any writ is directed under this Act, shall return the same on the day on which the same is made returnable, and shall state, on the back of the roll attached to such writ, what has been done in the execution thereof; and such return shall be filed in the court into which such return is made. R.S.C., c. 179, s. 18.

Return of  
writ by sheriff

Roll and  
return to be  
transmitted to  
Minister of  
Finance.

**924.** A copy of such roll and return, certified by the clerk of the court into which such return is made, shall be forthwith transmitted to the Minister of Finance and Receiver-General, with a minute thereon of any of the sums therein mentioned, which have been remitted by order of the court, in whole or in part, or directed to be forborne, under the authority of section nine hundred and nineteen. R.S.C., c. 179, s. 19.

Appropriation  
of moneys  
collected by  
sheriff.

**925.** The sheriff or other officer shall, without delay, pay over all moneys collected under the provisions of this part by him, to the Minister of Finance and Receiver-General, or other person entitled to receive the same. R.S.C., c. 179, s. 20.

Quebec.

**926.** The provisions of sections nine hundred and sixteen and nine hundred and nineteen to nine hundred and twenty-four, both inclusive, shall not apply to the province of Quebec, and the following provisions shall apply to that province only :

2. Whenever default is made in the condition of any recognizance lawfully entered into or taken in any criminal case, proceeding or matter, in the province of Quebec, within the legislative authority of the Parliament of Canada, so that the penal sum therein mentioned becomes forfeited and due to the Crown, such recognizance shall thereupon be estreated or withdrawn from any record or proceeding in which it then is—or where the recognizance has been entered into orally in open court—a certificate or minute of such recognizance, under the seal of the court, shall be made from the records of such court ;

(a.) Such recognizance, certificate or minute, as the case may be, shall be transmitted by the court, recorder, justice of the peace, magistrate or other functionary before whom the cognizor, or the principal cognizor, where there is a surety or sureties, was bound to appear, or to do that, by his default to do which the condition of the recognizance is broken, to the Superior Court in the district in which the place where such default was made is included for civil purposes, with the certificate of the court, recorder, justice of the peace, magistrate or other functionary as aforesaid, of the breach of the condition of such recognizance, of which and of the forfeiture to the Crown of the penal sum therein mentioned, such certificate shall be conclusive evidence ;

(b.) The date of the receipt of such recognizance or minute and certificate by the prothonotary of the said court, shall be endorsed thereon by him, and he shall enter judgment in favour of the Crown against the cognizor for the penal sum mentioned in such recognizance, and execution may issue therefor after the same delay as in other cases, which shall be reckoned from the time when the judgment is entered by the prothonotary of the said court ;

(c.)

(c.) Such execution shall issue upon fiat or *præcipe* of the Attorney-General, or of any person thereunto authorized in writing by him; and the Crown shall be entitled to the costs of execution and to costs on all proceedings in the case subsequent to execution, and to such costs, in the discretion of the court, for the entry of the judgment, as are fixed by any tariff.

3. Nothing in this section contained shall prevent the recovery of the sum forfeited by the breach of any recognizance from being recovered by suit in the manner provided by law, whenever the same cannot, for any reason, be recovered in the manner provided in this section;

(a.) In such case the sum forfeited by the non-performance of the conditions of such recognizance shall be recoverable, with costs, by action in any court having jurisdiction in civil cases to the amount, at the suit of the Attorney-General of Canada or of Quebec, or other person or officer authorized to sue for the Crown; and in any such action it shall be held that the person suing for the Crown is duly empowered so to do, and that the conditions of the recognizance were not performed, and that the sum therein mentioned is, therefore, due to the Crown, unless the defendant proves the contrary.

4. In this section, unless the context otherwise requires, the expression "cognizor" includes any number of cognizors in the same recognizance, whether as principals or sureties.

5. When a person has been arrested in any district for an offence committed within the limits of the province of Quebec, and a justice of the peace has taken recognizances from the witnesses heard before him or another justice of the peace, for their appearance at the next session or term of the court of competent criminal jurisdiction, before which such person is to undergo his trial, there to testify and give evidence on such trial, and such recognizances have been transmitted to the office of the clerk of such court, the said court may proceed on the said recognizances in the same manner as if they had been taken in the district in which such court is held. R.S.C., c. 179, ss. 21, 22 and 23.

#### PART LX.

#### FINES AND FORFEITURES.

**927.** Whenever no other provision is made by any law of Appropriation of fines, &c.  
Canada for the application of any fine, penalty or forfeiture imposed for the violation of any such law, the same shall belong to the Crown for the public uses of Canada.

2. Any duty, penalty or sum of money, or the proceeds of any forfeiture, which is, by any Act, given to the Crown, shall

shall, if no other provision is made respecting it, form part of the Consolidated Revenue Fund of Canada, and shall be accounted for and otherwise dealt with accordingly. R.S.C., c. 180, ss. 2 and 4.

Application of  
fines, &c., by  
Order in  
Council.

**928.** The Governor in Council may from time to time direct that any fine, penalty or forfeiture, or any portion thereof, which would otherwise belong to the Crown for the public uses of Canada, be paid to any provincial, municipal or local authority, which wholly or in part bears the expenses of administering the law under which such fine, penalty or forfeiture is imposed, or that the same be applied in any other manner deemed best adapted to attain the objects of such law and to secure its due administration. R.S.C., c. 180, s. 3.

Recovery of  
penalty or  
forfeiture.

**929.** Whenever any pecuniary penalty or any forfeiture is imposed for any violation of any Act, and no other mode is prescribed for the recovery thereof, such penalty or forfeiture shall be recoverable or enforceable, with costs, in the discretion of the court, by civil action or proceeding at the suit of Her Majesty only, or of any private party suing as well for Her Majesty as for himself—in any form allowed in such case by the law of that province in which it is brought—before any court having jurisdiction to the amount of the penalty in cases of simple contract—upon the evidence of any one credible witness other than the plaintiff or party interested; and if no other provision is made for the appropriation of any penalty or forfeiture so recovered or enforced, one moiety shall belong to Her Majesty, and the other moiety shall belong to the private party suing for the same, if any, and if there is none, the whole shall belong to Her Majesty. R.S.C., c. 180, s. 1.

Limitation of  
action.

**930.** No action, suit or information shall be brought or laid for any penalty or forfeiture under any such Act except within two years after the cause of action arises or after the offence is committed, unless the time is otherwise limited by such Act. R.S.C., c. 180, s. 5.



## TITLE VIII.

## PROCEEDINGS AFTER CONVICTION.

## PART LXI.

## PUNISHMENTS GENERALLY.

**931.** Whenever a person doing a certain act is declared to be guilty of any offence, and to be liable to punishment therefor, it shall be understood that such person shall only be deemed guilty of such offence and liable to such punishment after being duly convicted of such act. R.S.C., c. 181, s. 1. Punishment after conviction only.

**932.** Whenever it is provided that the offender shall be liable to different degrees or kinds of punishment, the punishment to be inflicted shall, subject to the limitations contained in the enactment, be in the discretion of the court or tribunal before which the conviction takes place. R.S.C., c. 181, s. 2. Degrees in punishment.

**933.** Whenever any offender is punishable under two or more Acts or two or more sections of the same Act, he may be tried and punished under any of such Acts or sections; but no person shall be twice punished for the same offence. R.S.C., c. 181, s. 3. Liability under different provisions.

**934.** Whenever a fine may be awarded or a penalty imposed for any offence, the amount of such fine or penalty shall, within such limits, if any, as are prescribed in that behalf, be in the discretion of the court or person passing sentence or convicting, as the case may be. R.S.C., c. 181, s. 33. Fine imposed shall be in discretion of court.

## PART LXII.

## CAPITAL PUNISHMENT.

**935.** Every one who is indicted as principal or accessory for any offence made capital by any statute, shall be liable to the same punishment, whether he is convicted by verdict or on confession, and this as well in the case of accessories as of principals. R.S.C., c. 181, s. 4. Punishment to be the same on conviction by verdict or by confession.

**936.** In all cases where an offender is sentenced to death the sentence or judgment to be pronounced against him shall be, that he be hanged by the neck until he is dead. R.S.C., c. 181, s. 5. Form of sentence of death.

Sentence of death to be reported to Secretary of State.

**937.** In the case of any prisoner sentenced to the punishment of death, the judge before whom such prisoner has been convicted shall forthwith make a report of the case to the Secretary of State, for the information of the Governor General; and the day to be appointed for carrying the sentence into execution shall be such as, in the opinion of the judge, will allow sufficient time for the signification of the Governor's pleasure before such day, and if the judge thinks such prisoner ought to be recommended for the exercise of the royal mercy, or if, from the non-decision of any point of law reserved in the case, or from any other cause, it becomes necessary to delay the execution, he, or any other judge of the same court, or who might have held or sat in such court, may, from time to time, either in term or in vacation, reprieve such offender for such period or periods beyond the time fixed for the execution of the sentence as are necessary for the consideration of the case by the Crown. R.S.C., c. 181, s. 8.

Prisoner under sentence of death to be confined apart.

**938.** Every one who is sentenced to suffer death shall, after judgment, be confined in some safe place within the prison, apart from all other prisoners; and no person except the gaoler and his servants, the medical officer or surgeon of the prison and a chaplain or a minister of religion, shall have access to any such convict, without the permission, in writing, of the court or judge before whom such convict has been tried, or of the sheriff. R.S.C., c. 181, s. 9.

Place of execution.

**939.** Judgment of death to be executed on any prisoner shall be carried into effect within the walls of the prison in which the offender is confined at the time of execution. R.S.C., c. 181, s. 10.

Persons who shall be present at execution.

**940.** The sheriff charged with the execution, and the gaoler and medical officer or surgeon of the prison, and such other officers of the prison and such persons as the sheriff requires, shall be present at the execution. R.S.C., c. 181, s. 11.

Persons who may be present at execution.

**941.** Any justice of the peace for the district, county or place to which the prison belongs, and such relatives of the prisoner or other persons as it seems to the sheriff proper to admit within the prison for the purpose, and any minister of religion who desires to attend, may also be present at the execution. R.S.C., c. 181, s. 12.

Certificate of death.

**942.** As soon as may be after judgment of death has been executed on the offender, the medical officer or surgeon of the prison shall examine the body of the offender, and shall ascertain the fact of death, and shall sign a certificate thereof, in the form UUU in schedule one hereto, and deliver the same to the sheriff.

2. The sheriff and the gaoler of the prison, and such justices and other persons present, if any, as the sheriff requires or allows, shall also sign a declaration in the form VVV in the said schedule to the effect that judgment of death has been executed on the offender. R.S.C., c. 181, ss. 13 and 14.

**943.** The duties imposed upon the sheriff, gaoler, medical officer or surgeon by the two sections next preceding, may be and, in his absence, shall be performed by his lawful deputy or assistant, or other officer or person ordinarily acting for him, or conjointly with him, or discharging the duties of any such officer. R.S.C., c. 181, s. 15.

**944.** A coroner of a district, county or place to which the prison belongs, wherein judgment of death is executed on any offender, shall, within twenty-four hours after the execution, hold an inquest on the body of the offender; and the jury at the inquest shall inquire into and ascertain the identity of the body, and whether judgment of death was duly executed on the offender; and the inquisition shall be in duplicate, and one of the originals shall be delivered to the sheriff.

2. No officer of the prison and no prisoner confined therein shall, in any case, be a juror on the inquest. R.S.C., c. 181, ss. 16 and 17.

**945.** The body of every offender executed shall be buried within the walls of the prison within which judgment of death is executed on him, unless the Lieutenant-Governor in Council orders otherwise. R.S.C., c. 181, s. 18.

**946.** Every certificate and declaration, and a duplicate of the inquest required by this Act, shall in every case be sent with all convenient speed by the sheriff to the Secretary of State, or to such other officer as is, from time to time, appointed for the purpose by the Governor in Council; and printed copies of such several instruments shall as soon as possible, be exhibited and shall, for twenty-four hours at least, be kept exhibited on or near the principal entrance of the prison within which judgment of death is executed. R.S.C., c. 181, s. 20.

**947.** The omission to comply with any provision of the preceding sections of this part shall not make the execution of judgment of death illegal in any case in which such execution would otherwise have been legal. R.S.C., c. 181, s. 21.

**948.** Except in so far as is hereby otherwise provided, judgment of death shall be carried into effect in the same manner as if the above provisions had not been passed. R.S.C., c. 181, s. 22.

Rules and regulations as to execution.

**949.** The Governor in Council may, from time to time, make such rules and regulations to be observed on the execution of judgment of death in every prison, as he, from time to time, deems expedient for the purpose, as well of guarding against any abuse in such execution, as also of giving greater solemnity to the same, and of making known without the prison walls the fact that such execution is taking place.

2. All such rules and regulations shall be laid upon the tables of both Houses of Parliament within six weeks after the making thereof, or, if Parliament is not then sitting, within fourteen days after the next meeting thereof. R.S.C., c. 181, ss. 44 and 45.

#### PART LXIII.

#### IMPRISONMENT.

Offences not capital, how punished.

**950.** Every one who is convicted of any offence not punishable with death shall be punished in the manner, if any, prescribed by the statute especially relating to such offence. R.S.C., c. 181, s. 23.

Imprisonment in cases not specially provided for.

**951.** Every person convicted of any indictable offence for which no punishment is specially provided, shall be liable to imprisonment for seven years.

2. Every one who is summarily convicted of any offence for which no punishment is specially provided, shall be liable to a penalty not exceeding fifty dollars, or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both. R.S.C., c. 181, s. 24.

Punishment for offence committed after previous conviction.

**952.** Every one who is convicted of an indictable offence, not punishable with death, committed after a previous conviction for an indictable offence, is liable to imprisonment for ten years, unless some other punishment is directed by any statute for the particular offence,—in which case the offender shall be liable to the punishment thereby awarded, and not to any other. R.S.C., c. 181, s. 25.

Imprisonment may be for shorter term than that prescribed.

**953.** Every one who is liable to imprisonment for life, or for any term of years, or other term, may be sentenced to imprisonment for any shorter term: Provided, that no one shall be sentenced to any shorter term of imprisonment than the minimum term, if any, prescribed for the offence of which he is convicted. R.S.C., c. 181, s. 26.

Cumulative punishments.

**954.** When an offender is convicted of more offences than one, before the same court or person at the same sitting, or when any offender, under sentence or undergoing punishment for one offence, is convicted of any other offence, the court



court or person passing sentence may, on the last conviction, direct that the sentences passed upon the offender for his several offences shall take effect one after another. R.S.C., c. 181, s. 27.

**§55.** Every one who is sentenced to imprisonment for life, or for a term of years, not less than two, shall be sentenced to imprisonment in the penitentiary for the province in which the conviction takes place. Imprisonment in penitentiary, &c.

2. Every one who is sentenced to imprisonment for a term less than two years shall, if no other place is expressly mentioned, be sentenced to imprisonment in the common gaol of the district, county or place in which the sentence is pronounced, or if there is no common gaol there, then in that common gaol which is nearest to such locality, or in some lawful prison or place of confinement, other than a penitentiary, in which the sentence of imprisonment may be lawfully executed.

3. Provided that where any one is sentenced to imprisonment in a penitentiary, and at the same sittings or term of the court trying him is sentenced for one or more other offences to a term or terms of imprisonment less than two years each, he may be sentenced for such shorter terms to imprisonment in the same penitentiary, such sentences to take effect from the termination of his other sentence.

4. Provided further that any prisoner sentenced for any term by any military, naval or militia court-martial, or by any military or naval authority under any Mutiny Act, may be sentenced to imprisonment in a penitentiary; and if such prisoner is sentenced to a term less than two years, he may be sentenced to imprisonment in the common gaol of the district, county or place in which the sentence is pronounced, or in such other prison or place of confinement as is provided by subsection two of this section with respect to persons sentenced thereunder.

5. Imprisonment in a penitentiary, in the Central Prison for the province of Ontario, in the Andrew Mercer Ontario Reformatory for females, and in any reformatory prison for females in the province of Quebec, shall be with hard labour, whether so directed in the sentence or not.

6. Imprisonment in a common gaol, or a public prison, other than those last mentioned, shall be with or without hard labour, in the discretion of the court or person passing sentence, if the offender is convicted on indictment, or under the provisions of Parts LIV. or LV., or before a judge of the Supreme Court of the North-west Territories, and in other cases may be with hard labour, if hard labour is part of the punishment for the offence of which such offender is convicted,—and if such imprisonment is to be with hard labour, the sentence shall so direct

7. The term of imprisonment, in pursuance of any sentence, shall, unless otherwise directed in the sentence, com-  
mence

mence on and from the day of passing such sentence, but no time during which the convict is out on bail shall be reckoned as part of the term of imprisonment to which he is sentenced.

8. Every one who is sentenced to imprisonment in any penitentiary, gaol, or other public or reformatory prison, shall be subject to the provisions of the statutes relating to such penitentiary, gaol or prison, and to all rules and regulations lawfully made with respect thereto. R.S.C., c. 181, s. 28 ; 53 V. c. 37, s. 31.

Imprisonment  
in reforma-  
tories.

**956.** The court or person before whom any offender whose age at the time of his trial does not, in the opinion of the court, exceed sixteen years, is convicted, whether summarily or otherwise, of any offence punishable by imprisonment, may sentence such offender to imprisonment in any reformatory prison in the province in which such conviction takes place, subject to the provisions of any Act respecting imprisonment in such reformatory ; and such imprisonment shall be substituted, in such case, for the imprisonment in the penitentiary or other place of confinement by which the offender would otherwise be punishable under any Act or law relating thereto : Provided, that in no case shall the sentence be less than two years' or more than five years' confinement in such reformatory prison ; and in every case where the term of imprisonment is fixed by law to be more than five years, then such imprisonment shall be in the penitentiary.

2. Every person imprisoned in a reformatory shall be liable to perform such labour as is required of such person. R.S.C., c. 181, s. 29.

#### PART LXIV.

#### WHIPPING.

Sentence of  
punishment  
by whipping.

**957.** Whenever whipping may be awarded for any offence, the court may sentence the offender to be once, twice or thrice whipped, within the limits of the prison, under the supervision of the medical officer of the prison ; and the number of strokes and the instrument with which they shall be inflicted shall be specified by the court in the sentence ; and, whenever practicable, every whipping shall take place not less than ten days before the expiration of any term of imprisonment to which the offender is sentenced for the offence.

2. Whipping shall not be inflicted on any female. R.S.C., c. 181, s. 30.

## PART LXV.

## SURETIES FOR KEEPING THE PEACE, AND FINES.

**958.** Every court of criminal jurisdiction and every magistrate under Part LV. before whom any person shall be convicted of an offence and shall not be sentenced to death, shall have power in addition to any sentence imposed upon such person, to require him forthwith to enter into his own recognizances, or to give security to keep the peace, and be of good behaviour for any term not exceeding two years, and that such person in default shall be imprisoned for not more than one year after the expiry of his imprisonment under his sentence, or until such recognizances are sooner entered into or such security sooner given, and any person convicted of an indictable offence punishable with imprisonment for five years or less may be fined in addition to or in lieu of any punishment otherwise authorized. R.S.C., c. 181, s. 31.

Persons convicted may be fined and bound over to keep the peace.

**959.** Whenever any person is charged before a justice under this part with an offence which, in the opinion of such justice, is directly against the peace, and the justice after hearing the case is satisfied of the guilt of the accused, and that the offence was committed under circumstances which render it probable that the person convicted will be again guilty of the same or some other offence against the peace unless he is bound over to good behaviour, such justice may, in addition to, or in lieu of, any other sentence which may be imposed upon the accused, require him forthwith to enter into his own recognizances, or to give security to keep the peace and be of good behaviour for any term not exceeding twelve months.

Recognizance to keep the peace.

2. Upon complaint by or on behalf of any person that on account of threats made by some other person or on any other account, he, the complainant, is afraid that such other person will do him, his wife or child some personal injury, or will burn or set fire to his property, the justice before whom such complaint is made, may, if he is satisfied that the complainant has reasonable grounds for his fears, require such other person to enter into his own recognizances, or to give security, to keep the peace, and to be of good behaviour, for a term not exceeding twelve months.

3. The provisions of this part shall apply so far as the same are applicable to proceedings under this section, and the complainant and defendant and witnesses may be called and examined, and cross-examined, and the complainant and defendant shall be subject to costs as in the case of any other complaint.

4. If any person so required to enter into his own recognizances or give security as aforesaid, refuses or neglects so to

to

to do, the same or any other justice may order him to be imprisoned for any term not exceeding twelve months.

5. The forms WWW, XXX and YYY, with such variations and additions as the circumstances may require, may be used in proceedings under this section.

Proceedings  
for not finding  
sureties to  
keep the  
peace.

**960.** Whenever any person who has been required to enter into a recognizance with sureties to keep the peace and be of good behaviour has, on account of his default therein, remained imprisoned for two weeks, the sheriff, gaoler or warden shall give notice, in writing, of the facts to a judge of a superior court, or to a judge of the county court of the county or district in which such gaol or prison is situate, and in the cities of Montreal and Quebec to a judge of the sessions of the peace for the district, or, in the North-west Territories to a stipendiary magistrate,—and such judge or magistrate may order the discharge of such person, thereupon or at a subsequent time, upon notice to the complainant or otherwise, or may make such other order as he sees fit, respecting the number of sureties, the sum in which they are to be bound and the length of time for which such person may be bound. R.S.C., c. 181, s. 32; 51 V., c. 47, s. 2.

#### PART LXVI.

#### DISABILITIES.

Consequences  
of conviction  
of public  
official.

**961.** If any person hereafter convicted of treason or any indictable offence for which he is sentenced to death, or imprisonment for a term exceeding five years, holds at the time of such conviction any office under the Crown or other public employment, or is entitled to any pension or superannuation allowance payable by the public, or out of any public fund, such office or employment shall forthwith become vacant, and such pension or superannuation allowance or emolument shall forthwith determine and cease to be payable, unless such person receives a free pardon from Her Majesty, within two months after such conviction, or before the filling up of such office or employment, if given at a later period; and such person shall become, and (until he suffers the punishment to which he is sentenced, or such other punishment as by competent authority is substituted for the same, or receives a free pardon from Her Majesty) shall continue thenceforth incapable of holding any office under the Crown, or other public employment, or of being elected, or sitting, or voting, as a member of either House of Parliament, or of exercising any right of suffrage or other parliamentary or municipal franchise. 33-34 V. (U. K.) c. 23, s. 2.

2. The setting aside of a conviction by competent authority shall remove the disability herein imposed.



## PART LXVII.

## PUNISHMENTS ABOLISHED.

**962.** Outlawry in criminal cases is abolished.

Outlawry.

**963.** The punishment of solitary confinement or of the pillory shall not be awarded by any court. R. S. C., c. 181, s. 34. Solitary confinement; pillory.

**964.** There shall be no forfeiture of any chattels, which have moved to or caused the death of any human being, in respect of such death. R.S.C., c. 181, s. 35. Deodand.

**965.** From and after the passing of this Act no confession, verdict, inquest, conviction or judgment of or for any treason or indictable offence or *felo de se* shall cause any attainder or corruption of blood, or any forfeiture or escheat; Provided that nothing in this section shall affect any fine or penalty imposed on any person by virtue of his sentence, or any forfeiture in relation to which special provision is made by any Act of the Parliament of Canada. 33-34 V. (U.K.) c. 23 ss. 1, 6 and 5. Attainder.

## PART LXVIII.

## PARDONS.

**966.** The Crown may extend the royal mercy to any person sentenced to imprisonment by virtue of any statute, although such person is imprisoned for non-payment of money to some person other than the Crown. Pardon by Crown.

2. Whenever the Crown is pleased to extend the royal mercy to any offender convicted of an indictable offence punishable with death or otherwise, and grants to such offender either a free or a conditional pardon, by warrant under the royal sign manual, countersigned by one of the principal Secretaries of State, or by warrant under the hand and seal-at-arms of the Governor General, the discharge of such offender out of custody, in case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall have the effect of a pardon of such offender, under the great seal, as to the offence for which such pardon has been granted; but no free pardon, nor any discharge in consequence thereof, nor any conditional pardon, nor the performance of the condition thereof, in any of the cases aforesaid, shall prevent or mitigate the punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any offence other than that for which the pardon was granted. R.S.C., c. 181, ss. 38 and 39.

Commutation  
of sentence.

**967.** The Crown may commute the sentence of death passed upon any person convicted of a capital offence to imprisonment in the penitentiary for life, or for any term of years not less than two years, or to imprisonment in any gaol or other place of confinement for any period less than two years, with or without hard labour; and an instrument under the hand and seal-at-arms of the Governor General, declaring such commutation of sentence, or a letter or other instrument under the hand of the Secretary of State or of the Under Secretary of State, shall be sufficient authority to any judge or justice, having jurisdiction in such case, or to any sheriff or officer to whom such letter or instrument is addressed, to give effect to such commutation, and to do all such things and to make such orders, and to give such directions, as are requisite for the change of custody of such convict, and for his conduct to and delivery at such gaol or place of confinement or penitentiary, and his detention therein, according to the terms on which his sentence has been commuted. R.S.C., c. 181, s. 40.

Undergoing  
sentence,  
equivalent to  
a pardon.

**968.** When any offender has been convicted of an offence not punishable with death, and has endured the punishment to which such offender was adjudged,—or if such offence is punishable with death and the sentence has been commuted, then if such offender has endured the punishment to which his sentence was commuted, the punishment so endured shall, as to the offence whereof the offender was so convicted, have the like effect and consequences as a pardon under the great seal; but nothing herein contained, nor the enduring of such punishment, shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any other offence. R.S.C., c. 181, s. 41.

Satisfying  
judgment.

**969.** When any person convicted of any offence has paid the sum adjudged to be paid, together with costs, if any, under such conviction, or has received a remission thereof from the Crown, or has suffered the imprisonment awarded for non-payment thereof, or the imprisonment awarded in the first instance, or has been discharged from his conviction by the justice of the peace in any case in which such justice of the peace may discharge such person, he shall be released from all further or other criminal proceedings for the same cause. R.S.C., c. 181, s. 42.

Royal prerogative.

**970.** Nothing in this part shall in any manner limit or affect Her Majesty's royal prerogative of mercy. R.S.C., c. 181, s. 43.

Conditional  
release of first  
offenders in  
certain cases.

**971.** In any case in which a person is convicted before any court of any offence punishable with not more than two years' imprisonment, and no previous conviction is proved against him, if it appears to the court before which he is so convicted

convicted, that, regard being had to the youth, character, and antecedents of the offender, to the trivial nature of the offence, and to any extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a recognizance, with or without sureties, and during such period as the court directs, to appear and receive judgment when called upon, and in the meantime to keep the peace and be of good behaviour.

2. The court may, if it thinks fit, direct that the offender shall pay the costs of the prosecution, or some portion of the same, within such period and by such instalments as the court directs. 52 V., c. 44, s. 2.

**972.** The court, before directing the release of an offender under the next preceding section, shall be satisfied that the offender or his surety has a fixed place of abode or regular occupation in the county or place for which the court acts, or in which the offender is likely to live during the period named for the observance of the conditions. 52 V., c. 44, s. 4

Conditions of release.

**973.** If a court having power to deal with such offender in respect of his original offence or any justice of the peace is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, such court or justice of the peace may issue a warrant for his apprehension.

Proceeding on default of recognizance.

2. An offender, when apprehended on any such warrant, shall, if not brought forthwith before the court having power to sentence him, be brought before the justice issuing such warrant or before some other justice in and for the same territorial division, and such justice shall either remand him by warrant until the time at which he was required by his recognizance to appear for judgment, or until the sitting of a court having power to deal with his original offence, or admit him to bail (with a sufficient surety) conditioned on his appearing for judgment.

3. The offender when so remanded may be committed to a prison, either for the county or place in or for which the justice remanding him acts, or for the county or place where he is bound to appear for judgment; and the warrant of remand shall order that he be brought before the court before which he was bound to appear for judgment, or to answer as to his conduct since his release. 52 V., c. 44, s. 3.

**974.** In the three next preceding sections the expression "court" means and includes any superior court of criminal jurisdiction, any "judge" or court within the meaning of Part LV., and any "magistrate" within the meaning of Part LVI. of this Act. 52 V., c. 44, s. 1.

Interpretation.

## TITLE IX.

ACTIONS AGAINST PERSONS ADMINISTERING THE  
CRIMINAL LAW.

Time and  
place of  
action.

**975.** Every action and prosecution against any person for anything purporting to be done in pursuance of any Act of the Parliament of Canada relating to criminal law, shall, unless otherwise provided, be laid and tried in the district, county or other judicial division, where the act was committed, and not elsewhere, and shall not be commenced except within six months next after the act committed. R.S.C., c. 185, s. 1.

Notice of  
action.

**976.** Notice in writing of such action and of the cause thereof, shall be given to the defendant one month at least before the commencement of the action R.S.C., c. 185, s. 2.

Defence.

**977.** In any such action the defendant may plead the general issue, and give the provisions of this title and the special matter in evidence at any trial had thereupon. R.S.C., c. 185, s. 3.

Tender or  
payment into  
court.

**978.** No plaintiff shall recover in any such action if tender of sufficient amends is made before such action brought, or if a sufficient sum of money is paid into court by or on behalf of the defendant after such action brought. R.S.C., c. 185, s. 4.

Costs.

**979.** If such action is commenced after the time hereby limited for bringing the same, or is brought or the venue laid in any other place than as aforesaid, a verdict shall be found or judgment shall be given for the defendant; and thereupon or if the plaintiff becomes nonsuit, or discontinues any such action after issue joined, or if upon demurrer or otherwise judgment is given against the plaintiff, the defendant shall, in the discretion of the court, recover his full costs as between solicitor and client, and shall have the like remedy for the same as any defendant has by law in other cases; and although a verdict or judgment is given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge, before whom the trial is had, certifies his approval of the action. R.S.C., c. 185, s. 5.

Other re-  
medies saved.

**980.** Nothing herein shall prevent the effect of any Act in force in any province of Canada, for the protection of justices of the peace or other officers from vexatious actions for things purporting to be done in the performance of their duty. R.S.C., c. 185, s. 6.



## TITLE X.

## REPEAL, &amp;c.

**981.** The several Acts set out and described in schedule two to this Act shall, from and after the date appointed for the coming into force of this Act, be repealed to the extent stated in the said schedule. Statutes repealed.

2. Every offence which has been committed, either wholly or in part, against any of the said Acts or parts of Acts hereby repealed, before the time appointed for the coming into force of this Act, shall be dealt with, inquired of, tried, determined, and punished, and every penalty in respect of any such offence shall be recovered, in the same manner as if the said Acts or parts of Acts had not been repealed; such repeal shall not affect the validity or otherwise of any act duly done, or of any warrant or other instrument duly made or granted, before the time of coming into force of this Act; but the same shall respectively continue and be of the same force and effect as if the said Acts or parts of Acts had not been repealed; and, subject as aforesaid, every right, title, liability, privilege, and protection, acquired or existing, in respect of any matter or thing committed or done before the coming into force of this Act, shall continue and be of the same force and effect as if the said Acts or parts of Acts had not been repealed; and every action, prosecution, and other proceeding which has been commenced before the time appointed for the coming into force of this Act, or which shall thereafter be commenced, in respect of any such matter or thing, may, subject as aforesaid, be prosecuted, continued and defended in the same manner as if the said Acts or parts of Acts had not been repealed, and in construing such parts reference may be had to the repealed portions of the Acts of which respectively they formed part as well as to any sections of this Act which have been substituted therefor and which deal with like matters.

**982.** The several forms in schedule one to this Act, varied to suit the case or forms to the like effect, shall be deemed good, valid and sufficient in law. Forms in schedule one to be valid.

**983.** The provisions of this Act extend to and are in force in the North-west Territories and the district of Keewatin except in so far as they are inconsistent with the provisions of the *North-west Territories Act* or *The Keewatin Act* and the amendments thereto. Application of Act to N.W. T. and Keewatin

2. Nothing in this Act shall affect any of the laws relating to the government of Her Majesty's land or naval forces. Not to affect H. M. forces

Not to affect  
certain Acts.

Construction  
thereof.

3. Nothing herein contained shall affect the Acts and parts of Acts in the appendix to this Act. And in construing such parts reference may be had to the repealed portions of the Acts of which respectively they form parts, as well as to any sections of this Act which have been substituted therefor, or which deal with like matters.

## SCHEDULE ONE—FORMS.

### A.—(Section 557.)

#### WARRANT TO CONVEY BEFORE A JUSTICE OF ANOTHER COUNTY

Canada,  
Province of  
County of

}  
,  
,  
,

Whereas information upon oath was this day made before the undersigned that A. B. of , on the day of , in the year , at , in the county of (state the charge).

And whereas I have taken the deposition of X. Y. as to the said offence.

And whereas the charge is of an offence committed in the county of

This is to command you to convey the said (name of accused), of , before some justice of the last-mentioned county, near the above place, and to deliver to him this warrant and the said deposition.

Dated at , in the said county of ,  
this day of , in the year .

J. S.,

J. P., (Name of county.)

To of

### B.—(Section 557.)

#### RECEIPT TO BE GIVEN TO THE CONSTABLE BY THE JUSTICE FOR THE COUNTY IN WHICH THE OFFENCE WAS COMMITTED.

Canada,  
Province of  
County of

}  
,  
,  
,

I, J. L., a justice of the peace in and for the county of , hereby certify that W. T., peace officer of the county of , has, on this day of , in the year , by virtue of and in obedience to a warrant of J. S., Esquire, a justice of the peace in and for the county of , produced before me one A. B., charged before the said J. S. with having (&c., stating shortly the offence), and delivered him into the custody of , by my direction, to answer to the said charge, and further to

to be dealt with according to law, and has also delivered unto me the said warrant, together with the information (*if any*) in that behalf, and the deposition (s) of C. D. (*and of* ), in the said warrant mentioned, and that he has also proved to me, upon oath, the handwriting of the said J. S. subscribed to the same.

Dated the day and year first above mentioned, at ,  
in the said county of .

J. L.,

J. P., (*Name of county*).

### C.—(Section 558.)

#### INFORMATION AND COMPLAINT FOR AN INDICTABLE OFFENCE.

Canada,                     )  
Province of                 ),  
County of                 ).

The information and complaint of C.D. of ,  
(*yeoman*), taken this                 day of                 , in the  
year                 , before the undersigned (*one*) of Her  
Majesty's justices of the peace in and for the said county  
of                 , who saith that (&c., *stating the offence*).

Sworn before (*me*), the day and year first above mentioned,  
at                 .

J. S.,

J. P., (*Name of county*).

### D.—(Section 560.)

#### WARRANT TO APPREHEND A PERSON CHARGED WITH AN INDICTABLE OFFENCE COMMITTED ON THE HIGH SEAS OR ABROAD.

*For offences committed on the high seas the warrant may be the same as in ordinary cases, but describing the offence to have been committed "on the high seas, out of the body of any district or county of Canada and within the jurisdiction of the Admiralty of England."*

*For offences committed abroad, for which the parties may be indicted in Canada, the warrant also may be the same as in ordinary cases, but describing the offence to have been committed "on land out of Canada, to wit: at                 in the Kingdom of                 , or, at                 , in the Island of                 , in the West Indies, or at                 , in the East Indies," or as the case may be.*



## E.—(Section 562.)

## SUMMONS TO A PERSON CHARGED WITH AN INDICTABLE OFFENCE.

Canada,                    )  
 Province of                ),  
 County of                    ).

To A. B., of                   , (*labourer*):

Whereas you have this day been charged before the undersigned                   , a justice of the peace in and for the said county of                   , for that you on                   , at                   , (*stating shortly the offence*): These are therefore to command you, in Her Majesty's name, to be and appear before (*me*) on                   , at                   o'clock in the (fore) noon, at                   or before such other justice or justices of the peace for the same county of                   , as shall then be there, to answer to the said charge, and to be further dealt with according to law. Herein fail not.

Given under (*my*) hand and seal, this                   day of                   , in the year                   , at                   , in the county aforesaid.

J. S., [SEAL.]  
*J. P.*, (*Name of county.*)

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## F.—(Section 563.)

## WARRANT IN THE FIRST INSTANCE TO APPREHEND A PERSON CHARGED WITH AN INDICTABLE OFFENCE.

Canada,                    )  
 Province of                ),  
 County of                    ).

To all or any of the constables and other peace officers in the said county of                   .

Whereas A.B. of                   , (*labourer*), has this day been charged upon oath before the undersigned                   , a justice of the peace in and for the said county of                   , for that he, on                   , at                   , did (&c., *stating shortly the offence*): These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A.B., and to bring him before (*me*) (or some other justice of the peace in and for the said county of                   ), to answer unto the said charge, and to be further dealt with according to law.

Given under (*my*) hand and seal, this                   day of                   , in the year                   , at                   , in the county aforesaid.

J. S., [SEAL.]  
*J. P.*, (*Name of county.*)



mentioned: I do therefore hereby authorize W.T. who brings to me this warrant and all other persons to whom this warrant was originally directed, or by whom it may be lawfully executed, and also all peace officers of the said county of \_\_\_\_\_, to execute the same within the said last mentioned county.

Given under my hand, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_, in the county aforesaid.

J. L.,  
J. P., (Name of county.)

# I.—(Section 569.)

## WARRANT TO SEARCH.

Canada, }  
Province of , }  
County of . }

Whereas it appears on the oath of A.B. of \_\_\_\_\_, that there is reason to suspect that (*describe things to be searched for and offence in respect of which search is made*) are concealed in \_\_\_\_\_ at \_\_\_\_\_.

This is, therefore, to authorize and require you to enter between the hours of (*as the justice shall direct*) into the said premises, and to search for the said things, and to bring the same before me or some other justice.

Dated at \_\_\_\_\_, in the said county of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

J.S.,  
J.P., (Name of county.)

To \_\_\_\_\_ of \_\_\_\_\_.

# J.—(Section 569.)

## INFORMATION TO OBTAIN A SEARCH WARRANT.

Canada, }  
Province of , }  
County of . }

The information of A. B., of \_\_\_\_\_, in the said county (*yeoman*), taken this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, J. S., Esquire, a justice of the peace, in and for the county (*describe things to be searched for and offence in respect of which search is made*), of \_\_\_\_\_.

of \_\_\_\_\_, who says that  
and that he has just and reasonable cause to suspect, and  
suspects, that the said goods and chattels, or some part of  
them are concealed in the (*dwelling-house, &c.*) of C. D., of  
\_\_\_\_\_, in the said county, (*here add the causes of  
suspicion, whatever they may be*): Wherefore (*he*) prays  
that a search warrant may be granted to him to search the  
(*dwelling-house, &c.*), of the said C. D., as aforesaid, for the  
said goods and chattels so feloniously stolen, taken and  
carried away as aforesaid.

Sworn (*or affirmed*) before me the day and year first above  
mentioned, at \_\_\_\_\_, in the said county of \_\_\_\_\_.

J. S.,

J. P., (*Name of county.*)

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K.—(*Section 580.*)

#### SUMMONS TO A WITNESS.

Canada, \_\_\_\_\_ )  
Province of \_\_\_\_\_, {  
County of \_\_\_\_\_ . }

To E. F., of \_\_\_\_\_, (*labourer*):

Whereas information has been laid before the undersigned  
\_\_\_\_\_, a justice of the peace in and for the said county  
of \_\_\_\_\_, that A. B. (*&c., as in the summons or warrant  
against the accused*), and it has been made to appear to me  
upon (*oath*), that you are likely to give material evidence for  
(*the prosecution*); These are therefore to require you to be  
and to appear before me, on \_\_\_\_\_ next, at \_\_\_\_\_ o'clock  
in the (*fore*) noon, at \_\_\_\_\_, or before such other justice  
or justices of the peace of the same county of \_\_\_\_\_, as  
shall then be there, to testify what you know concerning  
the said charge so made against the said A. B. as aforesaid.  
Herein fail not.

Given under my hand and seal, this \_\_\_\_\_ day of  
in the year \_\_\_\_\_, at \_\_\_\_\_, in the county aforesaid.,

J. S., [SEAL.]

J. P., (*Name of county.*)



## L.—(Section 582.)

## WARRANT WHEN A WITNESS HAS NOT OBEYED THE SUMMONS.

Canada,                    )  
 Province of                ),  
 County of                    ).

To all or any of the constables and other peace officers in the  
 said county of .

Whereas information having been laid before , a  
 justice of the peace, in and for the said county of ,  
 that A. B. (&c., as in the summons); and it having been  
 made to appear to (me) upon oath that E. F. of  
 (labourer), was likely to give material evidence for (the pro-  
 secution), (I) duly issued (my) summons to the said E. F.,  
 requiring him to be and appear before (me) on  
 at , or before such other justice or justices of the  
 peace for the same county, as should then be there, to testify  
 what he knows respecting the said charge so made against  
 the said A. B., as aforesaid; and whereas proof has this day  
 been made upon oath before (me) of such summons having  
 been duly served upon the said E. F.; and whereas the said  
 E. F. has neglected to appear at the time and place appointed  
 by the said summons, and no just excuse has been offered  
 for such neglect: These are therefore to command you to  
 bring and have the said E. F. before (me) on at  
 o'clock in the (fore) noon, at , or before  
 such other justice or justices for the same county, as shall  
 then be there, to testify what he knows concerning the said  
 charge so made against the said A. B. as aforesaid.

Given under (my) hand and seal, this                    day of  
 , in the year                    , at                    , in the county  
 aforesaid.

J. S., [SEAL.]  
 J. P., (Name of county.)

## M.—(Section 583.)

## WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

Canada,                    )  
 Province of                ),  
 County of                    ).

To all or any of the constables and other peace officers in  
 the said county of .

Whereas information has been laid before the undersigned  
 , a justice of the peace, in and for the said county  
 of , that (&c., as in the summons); and it having  
 been



for the same county as shall then be there, to testify what he knows concerning the said charge so made against the said A. B. as aforesaid.

Given under (*my*) hand and seal, this            day of            ,  
in the year            , at            , in the county aforesaid.

J. S., [SEAL.]  
J. P., (*Name of county.*)

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O.—(*Section 585.*)

WARRANT OF COMMITMENT OF A WITNESS FOR REFUSING TO  
BE SWORN OR TO GIVE EVIDENCE.

Canada,            )  
Province of            ,  
County of            . }

To all or any of the constables and other peace officers in the  
county of            , and to the keeper of the common  
gaol at            , in the said county of            .

Whereas A. B. was lately charged before            , a justice  
of the peace in and for the said county of            , for that (&c.,  
*as in the summons*) ; and it having been made to appear to  
(*me*) upon oath that E. F. of            , was likely to give  
material evidence for the prosecution (*I*) duly issued (*my*)  
summons to the said E. F., requiring him to be and appear  
before me on            , at            , or before such other justice  
or justices of the peace for the same county as should then  
be there, to testify what he knows concerning the said  
charge so made against the said A. B. as aforesaid ; and the  
said E. F. now appearing before (*me*) (*or* being brought  
before (*me*) by virtue of a warrant in that behalf), to testify  
as aforesaid, and being required to make oath or affirmation  
as a witness in that behalf, now refuses so to do (*or* being  
duly sworn as a witness now refuses to answer certain  
questions concerning the premises which are now here put  
to him, and more particularly the following            )  
without offering any just excuse for such refusal : These are  
therefore to command you, the said constables or peace officers,  
or any one of you, to take the said E. F. and him safely to  
convey to the common gaol at            , in the county aforesaid,  
and there to deliver him to the keeper thereof, together  
with this precept : And (*I*) do hereby command you, the  
said keeper of the said common gaol to receive the said E. F.  
into your custody in the said common gaol, and him there  
safely keep for the space of            days, for his said con-  
tempt,





## Q.—(Section 587.)

## RECOGNIZANCE OF BAIL INSTEAD OF REMAND ON AN ADJOURNMENT OF EXAMINATION.

Canada,                     )  
 Province of                 ),  
 County of                   ).

Be it remembered that on the                     day of  
 in the year                     , A. B., of                     , (labourer), L. M.,  
 of                     , (grocer), and N. O., of                     , (butcher),  
 personally came before me,                     , a justice  
 of the peace for the said county, and severally acknow-  
 ledged themselves to owe to our Sovereign Lady the Queen,  
 her heirs and successors, the several sums following, that is  
 to say: the said A.B. the sum of                     , and the said L. M.,  
 and N. O., the sum of                     , each, of good and lawful  
 current money of Canada, to be made and levied of their  
 several goods and chattels, lands and tenements respective-  
 ly, to the use of our said Lady the Queen, her heirs and suc-  
 cessors, if he, the said A. B., fails in the condition endorsed  
 (or hereunder written).

Taken and acknowledged the day and year first above  
 mentioned, at                     before me.

J. S.,

J. P., (Name of county.)

## CONDITION.

The condition of the within (or above) written recogniz-  
 ance is such that whereas the within bounden A.B. was this  
 day (or on                     last past) charged before me for that (&c.,  
*as in the warrant*); and whereas the examination of the wit-  
 nesses for the prosecution in this behalf is adjourned until  
 the                     day of                     (instant): If, therefore, the  
 said A. B. appears before me on the said                     day of  
 (instant), at                     o'clock in the  
 (fore) noon, or before such other justice or justices of the peace  
 for the said county as shall then be there, to answer (further)  
 to the said charge, and to be further dealt with according to  
 law, the said recognizance to be void, otherwise to stand in  
 full force and virtue.

## R.—(Section 589.)

CERTIFICATE OF NON-APPEARANCE TO BE ENDORSED ON THE  
RECOGNIZANCE.

I hereby certify that the said A. B. has not appeared at  
 the time and place in the above condition mentioned, but  
 therein has made a default, by reason whereof the within  
 written recognizance is forfeited.

J. S.,

J. P., (Name of county.) S.

## S.—(Section 590.)

## DEPOSITION OF A WITNESS.

Canada,                    )  
 Province of                ),  
 County of                    ).

The deposition of X. Y. of                   , taken before the undersigned, a justice of the peace for the said county of                   , this                   day of                   , in the year                   , at                   (or after notice to C.D. who stands committed for                   ) in the presence and hearing of C.D. who stands charged that (*state the charge*). The said deponent saith on his (*oath or affirmation*) as follows: (*Insert deposition as nearly as possible in words of witness.*)

(*If depositions of several witnesses are taken at the same time, they may be taken and signed as follows:*)

The depositions of X. of                   , Y. of                   , Z. of                   , &c., taken in the presence and hearing of C.D., who stands charged that

The deponent X. (*on his oath or affirmation*) says as follows:

The deponent Y. (*on his oath or affirmation*) says as follows:

The deponent Z. (*on his oath, &c., &c.*)  
 (*The signature of the justice may be appended as follows:*)

The depositions of X., Y., Z., &c., written on the several sheets of paper, to the last of which my signature is annexed, were taken in the presence and hearing of C.D. and signed by the said X., Y., Z., respectively in his presence. In witness whereof I have in the presence of the said C.D. signed my name.

J. S.,  
 J. P., (*Name of county.*)

## T.—(Section 591.)

## STATEMENT OF THE ACCUSED.

Canada,                    )  
 Province of                ),  
 County of                    ).

A. B. stands charged before the undersigned                   , a justice of the peace in and for the county aforesaid, this                   day of                   , in the year                   , for that the said A. B., on                   , at                   (*&c., as in the captions of the depositions*); and the said charge being read to the said A. B., and the witnesses for the prosecution, C. D. and E. F., being severally examined in his presence, the said A. B. is now addressed by me as follows:

“ Having

“ Having heard the evidence, do you wish to say anything  
“ in answer to the charge? You are not obliged to say any-  
“ thing unless you desire to do so; but whatever you say  
“ will be taken down in writing, and may be given in evi-  
“ dence against you at your trial. You must clearly under-  
“ stand that you have nothing to hope from any promise of  
“ favour, and nothing to fear from any threat which may  
“ have been held out to induce you to make any admission  
“ or confession of guilt, but whatever you now say may be  
“ given in evidence against you upon your trial, notwith-  
“ standing such promise or threat.” Whereupon the said  
A.B. says as follows: (*Here state whatever the prisoner says  
and in his very words, as nearly as possible. Get him to sign  
it if he will.*)

A. B.

Taken before me, at \_\_\_\_\_, the day and year first  
above mentioned.

J. S., [SEAL.]  
J.P., (*Name of county.*)

U.—(*Section 595.*)

FORM OF RECOGNIZANCE WHERE THE PROSECUTOR REQUIRES  
THE JUSTICE TO BIND HIM OVER TO PROSECUTE AFTER  
THE CHARGE IS DISMISSED.

Canada,                    )  
Province of                ),  
County of                 ).

Whereas C.D. was charged before me upon the informa-  
tion of E.F. that C.D. (*state the charge*), and upon the hear-  
ing of the said charge I discharged the said C.D., and the  
said E.F. desires to prefer an indictment against the said  
C.D. respecting the said charge, and has required me to  
bind him over to prefer such an indictment at (*here describe  
the next practicable sitting of the court by which the person  
discharged would be tried if committed*).

The undersigned E.F. hereby binds himself to perform  
the following obligation, that is to say, that he will prefer  
and prosecute an indictment respecting the said charge  
against the said C.D. at (*as above*). And the said E. F. ac-  
knowledges himself bound to forfeit to the Crown the sum  
of \$ \_\_\_\_\_ in case he fails to perform the said obligation.

E.F

Taken before me.

J. S.,  
J. P., (*Name of county.*)





## CONDITION TO PROSECUTE.

The condition of the within (or above) written recognizance is such that whereas one A. B. was this day charged before me, J. S., a justice of the peace within mentioned, for that (&c., as in the caption of the depositions); if, therefore, he the said C. D. appears at the court by which the said A. B. is or shall be tried \* and there duly prosecutes such charge then the said recognizance to be void, otherwise to stand in full force and virtue.

## X.—(Section 598.)

## COGNIZANCE TO PROSECUTE AND GIVE EVIDENCE.

(Same as the last form, to the asterisk,\* and then thus):—And there duly prosecute such charge against the said A. B. for the offence aforesaid, and gives evidence thereon, as well to the jurors who shall then inquire into the said offence, as also to them who shall pass upon the trial of the said A. B., then the said recognizance to be void, or else to stand in full force and virtue.

## Y.—(Section 598.)

## COGNIZANCE TO GIVE EVIDENCE.

(Same as the last form but one, to the asterisk,\* and then thus):—And there gives such evidence as he knows upon the charge to be then and there preferred against the said A. B. for the offence aforesaid, then the said recognizance to be void, otherwise to remain in full force and virtue.

## Z.—(Section 599.)

## COMMITMENT OF A WITNESS FOR REFUSING TO ENTER INTO THE RECOGNIZANCE.

Canada,	}
Province of	
County of	

To all or any of the peace officers in the said county of \_\_\_\_\_, and to the keeper of the common gaol of the said county of \_\_\_\_\_, at \_\_\_\_\_, in the said county of \_\_\_\_\_.

Whereas A. B. was lately charged before the undersigned (name of the justice of the peace), a justice of the peace in and for the said county of \_\_\_\_\_, for that (&c., as in the summons to the witness), and it having been made to appear to (me) upon

\* upon oath that E. F., of \_\_\_\_\_, was likely to give material evidence for the prosecution, (I) duly issued (*my*) summons to the said E. F., requiring him to be and appear before (*me*) on \_\_\_\_\_, at \_\_\_\_\_ or before such other justice or justices of the peace as should then be there, to testify what he knows concerning the said charge so made against the said A. B. as aforesaid; and the said E. F. now appearing before (*me*) (or being brought before (*me*) by virtue of a warrant in that behalf to testify as aforesaid), has been now examined before (*me*) touching the premises, but being by (*me*) required to enter into a recognizance conditioned to give evidence against the said A. B., now refuses so to do: These are therefore to command you the said peace officers, or any one of you, to take the said E. F. and him safely convey to the common gaol at \_\_\_\_\_, in the county aforesaid, and there deliver him to the said keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said E. F. into your custody in the said common gaol, there to imprison and safely keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime the said E. F. duly enters into such recognizance as aforesaid, in the sum of \_\_\_\_\_ before some one justice of the peace for the said county, conditioned in the usual form to appear at the court by which the said A. B. is or shall be tried, and there to give evidence upon the charge which shall then and there be preferred against the said A. B. for the offence aforesaid.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_, in the county aforesaid.

J. S., [SEAL.]  
J. P., (*Name of county.*)

AA.—(*Section 599.*)

SUBSEQUENT ORDER TO DISCHARGE THE WITNESS.

Canada, }  
Province of }  
County of }

To the keeper of the common gaol at \_\_\_\_\_, in the county of \_\_\_\_\_, aforesaid.

Whereas by (*my*) order dated the \_\_\_\_\_ day of \_\_\_\_\_ (*instant*) reciting that A. B. was lately before then charged before (*me*) for a certain offence therein mentioned, and that E. F. having appeared before (*me*) and being examined as a witness for the prosecution on that behalf, refused to enter into \_\_\_\_\_



## CONDITION.

The condition of the within (*or above*) written recognizance, is such that whereas the said A. B. was this day charged before (*us*), the justices within mentioned for that (*&c., as in the warrant*); if, therefore, the said A. B. appears at the next court of oyer and terminer (*or general gaol delivery or court of General or Quarter Sessions of the Peace*) to be holden in and for the county of \_\_\_\_\_, and there surrenders himself into the custody of the keeper of the common gaol (*or lock-up house*) there, and pleads to such indictment as may be found against him by the grand jury, for and in respect to the charge aforesaid, and takes his trial upon the same, and does not depart the said court without leave, then the said recognizance to be void, otherwise to stand in full force and virtue.

CC.—(*Section 602.*)

## WARRANT OF DELIVERANCE ON BAIL BEING GIVEN FOR A PRISONER ALREADY COMMITTED.

Canada, }  
 Province of }  
 County of }

To the keeper of the common gaol of the county of \_\_\_\_\_  
 at \_\_\_\_\_, in the said county.

Whereas A. B. late of \_\_\_\_\_, (*labourer*), has before (*us*) (*two*) justices of the peace in and for the said county of \_\_\_\_\_, entered into his own recognizance, and found sufficient sureties for his appearance at the next court of oyer and terminer or general gaol delivery (*or court of General or Quarter Sessions of the Peace*), to be holden in and for the county of \_\_\_\_\_, to answer our Sovereign Lady the Queen, for that (*&c., as in the commitment*), for which he was taken and committed to your said common gaol: These are therefore to command you, in Her Majesty's name, that if the said A. B. remains in your custody in the said common gaol for the said cause, and for no other, you shall forthwith suffer him to go at large.

Given under our hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_, in the county aforesaid.

J. S., [SEAL.]

J. N., [SEAL.]

J. P., (*Name of county.*)

DD.



## DD.—(Section 607.)

## GAOLER'S RECEIPT TO THE CONSTABLE FOR THE PRISONER.

I hereby certify that I have received from W. T., constable, of the county of \_\_\_\_\_, the body of A. B., together with a warrant under the hand and seal of J. S., Esquire, justice of the peace for the said county of \_\_\_\_\_, and that the said A. B. was sober, (*or as the case may be*), at the time he was delivered into my custody.

P. K.,

*Keeper of the common gaol of the said county.*

## EE.—(Sections 610 and 626.)

## HEADING OF INDICTMENT.

In the (*name of the court in which the indictment is found*).  
The jurors for our Lady the Queen present that  
(*Where there are more counts than one, add at the beginning of each count*):

"The said jurors further present that \_\_\_\_\_."

## FF.—(Section 611.)

## EXAMPLES OF THE MANNER OF STATING OFFENCES.

(a.) A. murdered B. at \_\_\_\_\_, on \_\_\_\_\_.

(b.) A. stole a sack of flour from a ship called the \_\_\_\_\_  
at \_\_\_\_\_, on \_\_\_\_\_.

(c.) A. obtained by false pretenses from B., a horse, a cart and the harness of a horse at \_\_\_\_\_, on \_\_\_\_\_.

(d.) A. committed perjury with intent to procure the conviction of B. for an offence punishable with penal servitude, namely robbery, by swearing on the trial of B. for the robbery of C. at the Court of Quarter Sessions for the county of Carleton, held at Ottawa, on the \_\_\_\_\_ day of \_\_\_\_\_, 1879; first, that he, A. saw B. at Ottawa, on the \_\_\_\_\_ day of \_\_\_\_\_; secondly, that B. asked A. to lend B. money on a watch belonging to C.; thirdly, &c.

*or*

(e.) The said A. committed perjury on the trial of B. at a Court of Quarter Sessions held at Ottawa, on \_\_\_\_\_ for an assault alleged to have been committed by the said B. on C. at Ottawa, on the \_\_\_\_\_ day of \_\_\_\_\_ by swearing to the effect that the said B. could not have been \_\_\_\_\_ at \_\_\_\_\_.

at Ottawa, at the time of the alleged assault, inasmuch as the said A. had seen him at that time in Kingston.

(f.) A., with intent to maim, disfigure, disable or do grievous bodily harm to B. or with intent to resist the lawful apprehension or detainer of A. (or C.), did actual bodily harm to B. (or D.).

(g.) A., with intent to injure or endanger the safety of persons on the Canadian Pacific Railway, did an act calculated to interfere with an engine, a tender, and certain carriages on the said railway on \_\_\_\_\_ at \_\_\_\_\_ by *(describe with so much detail as is sufficient to give the accused reasonable information as to the acts or omissions relied on against him, and to identify the transaction)*.

(h.) A. published a defamatory libel on B. in a certain newspaper, called the \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_ A.D. \_\_\_\_\_, which libel was contained in an article headed or commencing *(describe with so much detail as is sufficient to give the accused reasonable information as to the part of the publication to be relied on against him)*, and which libel was written in the sense of imputing that the said B. was *(as the case may be)*.

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GG.—(Section 648.)

CERTIFICATE OF INDICTMENT BEING FOUND.

Canada, \_\_\_\_\_ }  
 Province of \_\_\_\_\_ ,  
 County of \_\_\_\_\_ . }

I hereby certify that at a Court of (Oyer and Terminer, or General Gaol Delivery, or General Sessions of the Peace) holden in and for the county of \_\_\_\_\_, at \_\_\_\_\_, in the said (county), on \_\_\_\_\_, a bill of indictment was found by the grand jury against A. B., therein described as A.B., late of \_\_\_\_\_ *(labourer)*, for that he (&c., *stating shortly the offence*), and that the said A. B. has not appeared or pleaded to the said indictment.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

Z. X.  
*(Title of officer.)*

## HH.—(Section 648.)

## WARRANT TO APPREHEND A PERSON INDICTED.

Canada,                    )  
 Province of                ),  
 County of                    ).

To all or any of the constables and other peace officers in the said county of

Whereas it has been duly certified by J. D., clerk of the (*name the court*) (or E.G., deputy clerk of the Crown or clerk of the peace, or as the case may be), in and for the county of , that (&c., *stating the certificate*). These are therefore to command you in Her Majesty's name forthwith to apprehend the said A. B., and to bring him before (*me*) or some other justice or justices of the peace in and for the said county to be dealt with according to law.

Given under my hand and seal, this                    day of  
                                   , in the    year                    , at                    , in the  
 county aforesaid

J. S., [SEAL.]  
 J. P., (*Name of county.*)

## II.—(Section 648.)

## WARRANT OF COMMITMENT OF A PERSON INDICTED.

Canada,                    )  
 Province of                ),  
 County of                    ).

To all or any of the constables and other peace officers in the said county of , and the keeper of the common gaol, at , in the said county of

Whereas by a warrant under the hand and seal of , (a) justice of the peace in and for the said county of , dated , after reciting that it had been certified by J. D., (&c., as in the certificate), the said justice of the peace commanded all or any of the constables or peace officers of the said county, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (*him*) the said justice of the peace or before some other justice or justices in and for the said county, to be dealt with according to law; and whereas the said A. B. has been apprehended under and by virtue of the said warrant, and being now brought before (*me*) it is hereupon duly proved to (*me*) upon oath that the said A. B. is the same person who is named and charged as aforesaid in the said indictment: These are therefore to command

mand you, the said constables and peace officers, or any of you, in Her Majesty's name, forthwith to take and convey the said A. B. to the said common gaol at \_\_\_\_\_, in the said county of \_\_\_\_\_, and there to deliver him to the keeper thereof, together with this precept; and (I) hereby command you the said keeper to receive the said A.B., into your custody in the said gaol, and him there safely to keep until he shall thence be delivered by due course of law.

Given under (my) hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, at \_\_\_\_\_, in the county aforesaid.

J. S., [SEAL.]  
J. P., (Name of county.)

JJ —(Section 648.)

WARRANT TO DETAIN A PERSON INDICTED WHO IS ALREADY  
IN CUSTODY FOR ANOTHER OFFENCE.

Canada, }  
Province of }  
County of }

To the keeper of the common gaol at \_\_\_\_\_ in the said  
county of \_\_\_\_\_

Whereas it has been duly certified by J. D., clerk of the (name the court) (or deputy clerk of the Crown or clerk of the peace of and for the county of \_\_\_\_\_, or as the case may be) that (&c., stating the certificate); And whereas (I am) informed that the said A.B. is in your custody in the said common gaol at \_\_\_\_\_ aforesaid, charged with some offence, or other matter; and it being now duly proved upon oath before (me) that the said A. B., so indicted as aforesaid, and the said A. B., in your custody, as aforesaid, are one and the same person: These are therefore to command you, in Her Majesty's name, to detain the said A. B. in your custody in the common gaol aforesaid, until by a writ of *habeas corpus* he shall be removed therefrom, for the purpose of being tried upon the said indictment, or until he shall otherwise be removed or discharged out of your custody by due course of law

Given under (my) hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, at \_\_\_\_\_, in the county aforesaid.

J. S., [SEAL.]  
J. P., (Name of county.)

KK.



## KK.—(Section 666.)

## CHALLENGE TO ARRAY.

Canada,  
Province of  
County of

The Queen } The said A.B., who prosecutes for our Lady  
v. } the Queen (or the said C.D., as the case may  
C D } be) challenges the array of the panel on the  
ground that it was returned by X.Y., sheriff of the county  
of (or E.F., deputy of X.Y., sheriff of the county  
of , as the case may be), and that the said X.Y. (or  
E.F., as the case may be) was guilty of partiality (or fraud, or  
wilful misconduct) on returning said panel.

## LL.—(Section 668.)

## CHALLENGE TO POLL.

Canada,  
Province of  
County of

The Queen } The said A.B., who prosecutes, &c. (or the  
v. } said C.D., as the case may be) challenges G.H.,  
C.D. } on the ground that his name does not appear  
in the panel, (or “that he is not indifferent between the  
Queen and the said C.D.,” or “that he was convicted and  
sentenced to ‘death’ or ‘penal servitude,’ or ‘imprisonment  
with hard labour,’ or ‘exceeding twelve months,’” or “that  
he is disqualified as an alien.”

## FORMS UNDER PART LIV.

## MM.—(Section 767.)

## FORM OF RECORD WHEN THE PRISONER PLEADS NOT GUILTY.

Canada,  
Province of  
County of

Be it remembered that A.B. being a prisoner in the gaol  
of the said county, committed for trial on a charge of having  
on day of , in the year , stolen,  
&c. (one cow, the property of C.D., or as the case may be,  
stating briefly the offence) and having been brought before  
me (describe the judge) on the day of ,  
in the year , and asked by me if he consented  
to be tried before me without the intervention of a jury,  
consented to be so tried; and that upon the  
day of , in the year , the said A.B., being  
again brought before me for trial, and declaring himself  
ready, was arraigned upon the said charge and pleaded not  
guilty;

guilty; and after hearing the evidence adduced, as well in support of the said charge as for the prisoner's defence (or as the case may be), I find him to be guilty of the offence with which he is charged as aforesaid, and I accordingly sentence him to (*here insert such sentence as the law allows and the judge thinks right*); (or I find him not guilty of the offence with which he is charged, and discharge him accordingly).

Witness my hand at \_\_\_\_\_, in the county of \_\_\_\_\_,  
this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.  
O. K.,  
Judge.

### NN.—(Section 767.)

#### FORM OF RECORD WHEN THE PRISONER PLEADS GUILTY.

Canada, }  
Province of \_\_\_\_\_, }  
County of \_\_\_\_\_.

Be it remembered that A. B. being a prisoner in the gaol of the said county, on a charge of having on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, stolen, &c., (*one cow, the property of C. D., or as the case may be, stating briefly the offence*), and being brought before me (*describe the judge*) on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, and asked by me if he consented to be tried before me without the intervention of a jury, consented to be so tried; and that the said A.B. being then arraigned upon the said charge, he pleaded guilty thereof, whereupon I sentenced the said A.B. to (*here insert such sentence as the law allows and the judge thinks right*).

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.  
O. K.,  
Judge.

### OO.—(Section 781.)

#### WARRANT TO APPREHEND WITNESS.

Canada, }  
Province of \_\_\_\_\_, }  
County of \_\_\_\_\_.

To all or any of the constables and other peace officers in the said county of \_\_\_\_\_

Whereas it having been made to appear before me, that E.F., of \_\_\_\_\_, in the said county of \_\_\_\_\_, was likely to give material evidence on behalf of the prosecution (*or defence, as the case may be*) on the trial of a certain charge of (*as theft, or as the case may be*), against A.B., and that

that the said E.F. was duly subpœnaed (or bond under recognizance) to appear on the                      day of                      , in the year                      , at                      , in the said county at o'clock (forenoon or afternoon, as the case may be), before me, to testify what he knows concerning the said charge against the said A.B.

And whereas proof has this day been made before me, upon oath of such subpœna having been duly served upon the said E.F., (or of the said E.F. having been duly bound under recognizance to appear before me, as the case may be); and whereas the said E.F. has neglected to appear at the trial and place appointed, and no just excuse has been offered for such neglect: These are therefore to command you to take the said E.F. and to bring him and have him forthwith before me, to testify what he knows concerning the said charge against the said A.B., and also to answer his contempt for such neglect.

Given under my hand this                      day of                      , in the year                      .  
O. K.,  
Judge.

PP.—(Section 781.)

CONVICTION FOR CONTEMPT.

Canada,                      )  
Province of                      , }  
County of                      . }

Be it remembered that on the                      day of                      , in the year                      , in the county of                      , E.F. is convicted before me, for that he the said E. F. did not attend before me to give evidence on the trial of a certain charge against one A.B. of (theft, or as the case may be), although duly subpœnaed (or bound by recognizance to appear and give evidence in that behalf, as the case may be) but made default therein, and has not shown before me any sufficient excuse for such default, and I adjudge the said E. F., for his said offence, to be imprisoned in the common gaol of the county of                      , at                      , for the space of                      , there to be kept at hard labour (and in case a fine is also intended to be imposed, then proceed) and I also adjudge that the said E. F. do forthwith pay to and for the use of Her Majesty a fine of                      dollars, and in default of payment, that the said fine, with the cost of collection, be levied by distress and sale of the goods and chattels of the said E. F. (or in case a fine alone is imposed, then the clause of imprisonment is to be omitted).

Given under my hand at                      , in the said county of                      , the day and year first above mentioned.  
O. K.,  
Judge.

FORMS

## FORMS UNDER PART LV.

QQ.—(Section 807.)

## CONVICTION.

Canada,                    )  
 Province of                ),  
 County of                    ).

Be it remembered that on the                    day of  
 in the year                    , at                    , A. B., being  
 charged before me, the undersigned,                    , of the said  
 (*city*) (and consenting to my trying the charge summarily),  
 is convicted before me, for that he, the said A. B., (*&c., stating  
 the offence, and the time and place when and where committed*),  
 and I adjudge the said A. B., for his said offence, to be im-  
 prisoned in the                    (and there kept to hard labour)  
 for the term of                    .

Given under my hand and seal, the day and year first  
 above mentioned, at                    aforesaid.

J. S., [SEAL.]  
*J. P., (Name of county.)*

RR.—(Section 807.)

## CONVICTION UPON A PLEA OF GUILTY.

Canada,                    )  
 Province of                ),  
 County of                    ).

Be it remembered that on the                    day of                    ,  
 in the year                    , at                    , A. B. being  
 charged before me, the undersigned,                    , of the said  
 (*city*) (and consenting to my trying the charge summarily),  
 for that he, the said A. B., (*&c., stating the offence, and the time  
 and place when and where committed*), and pleading guilty to  
 such charge, he is thereupon convicted before me of the said  
 offence; and I adjudge him, the said A. B., for his said offence,  
 to be imprisoned in the                    (and there kept to hard  
 labour) for the term of                    .

Given under my hand and seal, the day and year first  
 above mentioned, at                    aforesaid.

J. S., [SEAL.]  
*J. P., (Name of county.)*



## SS.—(Section 807.)

## CERTIFICATE OF DISMISSAL.

Canada,  
Province of  
County of

}  
,  
.

I, the undersigned, , of the city (or as  
the case may be) of , certify that on the  
day of , in the year , at  
aforesaid, A. B., being charged before me (and  
consenting to my trying the charge summarily), for that he,  
the said A. B., (&c., stating the offence charged, and the time  
and place when and where alleged to have been committed), I  
did, after having summarily tried the said charge, dismiss  
the same.

Given under my hand and seal, this day of  
, in the year , at aforesaid.

J. S., [SEAL.]  
J. P., (Name of county.)

## FORMS UNDER PART LVI.

## TT.—(Section 819.)

## CERTIFICATE OF DISMISSAL.

Canada, , justices of  
Province of , the peace for the of  
County of . , (or if a recorder,  
&c., I, a , of the  
of , as the case may be), do hereby certify that  
on the day of , in the year  
at , in the said of , A. B.  
was brought before us, the said justices (or me, the said  
, charged with the following offence, that is  
to say (here state briefly the particulars of the charge), and that  
we, the said justices, (or I, the said ) thereupon  
dismissed the said charge.

Given under our hands and seals (or my hand and seal) this  
day of , in the year , at aforesaid.

J. P. [SEAL.]  
J. R. [SEAL.]  
or S. J. [SEAL.]



and also the compensation, if any), to be paid and applied according to law, and also to pay to the said C. D. the sum of \_\_\_\_\_, for his costs in this behalf; and if the said several sums are not paid forthwith, (or on or before the \_\_\_\_\_ of \_\_\_\_\_ next), \* I order that the same be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress, \* I adjudge the said A. B. to be imprisoned in the common gaol of the said county, at \_\_\_\_\_, in the said county of \_\_\_\_\_, (there to be kept at hard labour, if such is the sentence) for the term of \_\_\_\_\_, unless the said several sums and all costs and charges of the said distress (and of the commitment and conveying of the said A. B. to the said gaol) are sooner paid.

Given under my hand and seal, the day and year first above mentioned, at \_\_\_\_\_, in the county aforesaid.

J. S., [SEAL.]

J. P., (Name of county.)

\* Or when the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears he has no goods whereon to levy a distress, then instead of the words between the asterisks \* \* say, "inasmuch as it is now made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B. and his family," (or, "that the said A. B. has no goods or chattels whereon to levy the said sums by distress").

#### WW.—(Section 859.)

#### CONVICTION FOR A PENALTY, AND IN DEFAULT OF PAYMENT IMPRISONMENT.

Canada, }  
Province of }  
County of }

Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, at \_\_\_\_\_, in the said county, A. B. is convicted before the undersigned, \_\_\_\_\_, a justice of the peace for the said county for that he the said A. B. (&c., stating the offence, and the time and place when and where it was committed), and I adjudge the said A. B. for his said offence to forfeit and pay the sum of \_\_\_\_\_ (stating the penalty and the compensation, if any) to be paid and applied according to law; and also to pay to the said C. D. the sum of \_\_\_\_\_ for his costs in this behalf; and if the said several sums are not paid forthwith (or, on or before \_\_\_\_\_ next), I adjudge the said A. B. to be imprisoned in the common gaol of the said county, at \_\_\_\_\_, in the said county of \_\_\_\_\_ (and there to be kept at hard labour)

labour) for the term of \_\_\_\_\_, unless the said sums and the costs and charges of conveying the said A. B. to the said common gaol are sooner paid.

Given under my hand and seal, the day and year first above mentioned at \_\_\_\_\_, in the county aforesaid.

J. S., [SEAL.]

J. P., (Name of county.)

## XX. (Section 859.)

### CONVICTION WHEN THE PUNISHMENT IS BY IMPRISONMENT, ETC.

Canada,  
Province of \_\_\_\_\_, }  
County of \_\_\_\_\_ . }

Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_ at \_\_\_\_\_, in the said county, A. B. is convicted before the undersigned, \_\_\_\_\_, a justice of the peace in and for the said county, for that he the said A. B. (&c., *stating the offence, and the time and place when and where it was committed*); and I adjudge the said A. B. for his said offence to be imprisoned in the common gaol of the said county, at \_\_\_\_\_, in the county of \_\_\_\_\_, (and there to be kept at hard labour) for the term of \_\_\_\_\_; and I also adjudge the said A. B. to pay to the said C. D. the sum of \_\_\_\_\_, for his costs in this behalf, and if the said sum for costs are not paid forthwith (*or on or before* \_\_\_\_\_ next,) then \* I order that the said sum be levied by distress and sale of the goods and chattels of the said A. B.; and in default of sufficient distress in that behalf, \* I adjudge the said A. B. to be imprisoned in the said common gaol (and kept there at hard labour) for the term of \_\_\_\_\_, to commence at \_\_\_\_\_ and from the term of his imprisonment aforesaid, unless the said sum for costs is sooner paid.

Given under my hand and seal, the day and year first above mentioned at \_\_\_\_\_, in the county aforesaid.

J. S., [SEAL.]

J. P., (Name of county.)

\* *Or, when the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks \* \* say, "inasmuch as it is now made to appear to me that the issuing of a warrant of distress in this*



this behalf would be ruinous to the said A. B. and his family," (or, "that the said A. B. has no goods or chattels whereon to levy the said sum for costs by distress").

YY.—(Section 859.)

ORDER FOR PAYMENT OF MONEY TO BE LEVIED BY DISTRESS  
AND IN DEFAULT OF DISTRESS IMPRISONMENT.

Canada,                     )  
Province of                 ),  
County of                   ).

Be it remembered that on \_\_\_\_\_, complaint was made before the undersigned, \_\_\_\_\_, a justice of the peace in and for the said county of \_\_\_\_\_, for that (*stating the facts entitling the complainant to the order, with the time and place when and where they occurred*), and now at this day, to wit, on \_\_\_\_\_, at \_\_\_\_\_, the parties aforesaid appear before me the said justice (or the said C. D. appears before me the said justice, but the said A. B., although duly called, does not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me on oath that the said A. B. was duly served with the summons in this behalf, which required him to be and appear here on this day before me or such justice or justices of the peace for the county, as should now be here, to answer the said complaint, and to be further dealt with according to law); and now having heard the matter of the said complaint, I do adjudge the said A. B. to pay to the said C. D. the sum of \_\_\_\_\_ forthwith (or on or before \_\_\_\_\_ next, or as the Act or law requires), and also to pay to the said C. D. the sum of \_\_\_\_\_ for his costs in this behalf; and if the said several sums are not paid forthwith (or on or before \_\_\_\_\_ next), then, \* I hereby order that the same be levied by distress and sale of the goods and chattels of the said A. B. and in default of sufficient distress in that behalf \* I adjudge the said A. B. to be imprisoned in the common gaol of the said county, at \_\_\_\_\_, in the said county of \_\_\_\_\_, (and there kept at hard labour) for the term of \_\_\_\_\_, unless the said several sums, and all costs and charges of the said distress (and the commitment and conveyance of the said A. B. to the said common gaol) are sooner paid.

Given under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_ in the county aforesaid.

J. S., [SEAL.]

J. P., (Name of county.)

\* Or,

*\*Or, when the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears he has no goods whereon to levy a distress, then, instead of the words between the asterisks \* \* say, "inasmuch as it is now made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B. and his family," (or "that the said A. B. has no goods or chattels whereon to levy the said sums by distress").*

ZZ.—(Section 859.)

ORDER FOR PAYMENT OF MONEY, AND IN DEFAULT OF  
PAYMENT IMPRISONMENT.

Canada,                     }  
Province of                },  
County of                 }.

Be it remembered that on                     , complaint was made before the undersigned,                     , a justice of the peace in and for the said county of                     , for that (*stating the facts entitling the complainant to the order, with the time and place when and where they occurred*), and now on this day, to wit, on                     , at                     , the parties aforesaid appear before me the said justice (or the said C. D. appears before me the said justice, but the said A. B., although duly called, does not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me upon oath that the said A. B. was duly served with the summons in this behalf, which required him to be and appear here this day before me, or such justice or justices of the peace for the said county, as should now be here, to answer to the said complaint, and to be further dealt with according to law), and now having heard the matter of the said complaint, I do adjudge the said A. B. to pay to the said C. D. the sum of                     forthwith (or on or before                     next, or as the Act or law requires), and also to pay to the said C. D. the sum of                     for his costs in this behalf; and if the said several sums are not paid forthwith (or on or before                     next), then I adjudge the said A. B. to be imprisoned in the common gaol of the said county at                     , in the said county of                     , (there to be kept at hard labour if the Act or law authorizes this) for the term of                     unless the said several sums (and costs and charges of commitment and conveying the said A. B. to the said common gaol) are sooner paid.

Given under my hand and seal this                     day of                     , in the year                     , at                     , in the county aforesaid.

J. S., [SEAL.]

J. P., (*Name of county.*)

AAA.

## AAA.—(Section 859.)

ORDER FOR ANY OTHER MATTER WHERE THE DISOBEYING  
OF IT IS PUNISHABLE WITH IMPRISONMENT.

Canada, )  
Province of ,  
County of )

Be it remembered that on \_\_\_\_\_, complaint was  
made before the undersigned, \_\_\_\_\_, a justice of the  
peace in and for the said county of \_\_\_\_\_, for that  
(*stating the facts entitling the complainant to the order, with  
the time and place where and when they occurred*); and  
now on this day, to wit, on \_\_\_\_\_, at \_\_\_\_\_,  
the parties aforesaid appear before me the said justice  
(or the said C. D. appears before me the said justice, but  
the said A.B., although duly called, does not appear by  
himself, his counsel or attorney, and it is now satisfactorily  
proved to me, upon oath, that the said A.B. was duly served  
with the summons in this behalf, which required him to be  
and appear here this day before me, or such justice or justices  
of the peace for the said county, as should now be here to  
answer to the said complaint and to be further dealt with  
according to law; and now having heard the matter of the  
said complaint, I do adjudge the said A.B. to (*here state the  
matter required to be done*), and if, upon a copy of the minute  
of this order being served upon the said A.B., either person-  
ally or by leaving the same for him at his last or most usual  
place of abode, he neglects or refuses to obey the same, in  
that case I adjudge the said A.B., for such his disobedience,  
to be imprisoned in the common gaol of the said county, at  
\_\_\_\_\_, in the said county of \_\_\_\_\_, (there to be kept at  
hard labour, *if the statute authorizes this*), for the term of \_\_\_\_\_  
unless the said order is sooner obeyed, and I do also adjudge  
the said A.B. to pay to the said C.D. the sum of \_\_\_\_\_  
for his costs in this behalf, and if the said sum for costs is  
not paid forthwith (*or on or before* \_\_\_\_\_ next), I order  
the same to be levied by distress and sale of the goods and  
chattels of the said A.B., and in default of sufficient distress  
in that behalf I adjudge the said A.B. to be imprisoned in  
the said common gaol (there to be kept at hard labour) for  
the space of \_\_\_\_\_, to commence at and from the  
termination of his imprisonment aforesaid, unless the said  
sum for costs is sooner paid.

Given under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_,  
in the year \_\_\_\_\_, at \_\_\_\_\_, in the county aforesaid.

J. S., [SEAL.]  
J. P., (*Name of county.*)

BBB.

## BBB.—(Section 862.)

## FORM OF ORDER OF DISMISSAL OF AN INFORMATION OR COMPLAINT.

Canada,  
Province of  
County of

}  
,  
,  
,

Be it remembered that on , information was laid (or complaint was made) before the undersigned, a justice of the peace in and for the said county of , for that (*&c., as in the summons of the defendant*) and now at this day, to wit, on , at , (*if at any adjournment insert here : "to which day the hearing of this case was duly adjourned, of which the said C. D. had due notice,"*) both the said parties appear before me in order that I should hear and determine the said information (or complaint) (or the said A. B. appears before me, but the said C. D., although duly called, does not appear); [whereupon the matter of the said information (or complaint) being by me duly considered, it manifestly appears to me that the said information (or complaint) is not proved, and] (*if the informant or complainant does not appear, these words may be omitted,*) I do therefore dismiss the same, and do adjudge that the said C. D. do pay to the said A. B. the sum of , for his costs incurred by him in defence in his behalf; and if the said sum for costs is not paid forthwith (or on or before ), I order that the same be levied by distress and sale of the goods and chattels of the said C. D., and in default of sufficient distress in that behalf, I adjudge the said C. D. to be imprisoned in the common gaol of the said county of , at , in the said county of (and there kept at hard labour) for the term of , unless the said sum for costs, and all costs and charges of the said distress (and of the commitment and conveying of the said C. D. to the said common gaol) are sooner paid.

Given under my hand and seal, this day of  
in the year , at , in the county aforesaid.

J. S., [SEAL.]

J. P., (*Name of county*).



CCC.—(*Section 862.*)

FORM OF CERTIFICATE OF DISMISSAL.

Canada, )  
Province of ,  
County of .

I hereby certify that an information (or complaint) preferred by C. D. against A. B. for that (&c., as in the summons) was this day considered by me, a justice of the peace in and for the said county of \_\_\_\_\_, and was by me dismissed (with costs).

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_

J. S.,  
J. P., (*Name of county*).

DDD.—(*Section 872.*)

WARRANT OF DISTRESS UPON A CONVICTION FOR A PENALTY.

Canada, }  
Province of , }  
County of . }

To all or any of the constables and other peace officers in the  
said county of \_\_\_\_\_.

Whereas A. B., late of \_\_\_\_\_, (labourer), was on this day (or on \_\_\_\_\_ last past) duly convicted before \_\_\_\_\_, a justice of the peace, in and for the said county of \_\_\_\_\_, for that (*stating the offence, as in the conviction*), and it was thereby adjudged that the said A. B. should for such his offence, forfeit and pay (&c., *as in the conviction*), and should also pay to the said C. D. the sum of \_\_\_\_\_, for his costs in that behalf; and it was thereby ordered that if the said several sums were not paid (forthwith) the same should be levied by distress and sale of the goods and chattels of the said A. B., and it was thereby also adjudged that the said A. B., in default of sufficient distress, should be imprisoned in the common gaol of the said county, at \_\_\_\_\_, in the said county of \_\_\_\_\_ (and there kept at hard labour) for the space of \_\_\_\_\_, unless the said several sums and all costs and charges of the said distress, and of the commitment and conveying of the said A. B. to the said common gaol were sooner paid; \*And whereas the said A. B., being so convicted as aforesaid, and being (now) required to pay the said sums of \_\_\_\_\_ and \_\_\_\_\_ has not paid the



ment and conveying of the said A. B. to the said common gaol) were sooner paid; \*And whereas the time in and by the said order appointed for the payment of the said several sums of \_\_\_\_\_, and \_\_\_\_\_ has elapsed, but the said A. B. has not paid the same, or any part thereof, but therein has made default: These are, therefore, to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B.; and if within the space of \_\_\_\_\_ days after the making of such distress, the said last mentioned sums, together with the reasonable charges of taking and keeping the said distress, are not paid, then to sell the said goods and chattels so by you distrained, and to pay the money arising from such sale unto me (or some other of the convicting justices, as the case may be), that I (or he) may pay or apply the same as by law directed, and may render the overplus, if any, on demand to the said A. B.; and if no such distress can be found, then to certify the same unto me, to the end that such proceedings may be had therein, as to law appertain.

Given under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_, in the county aforesaid.

J. S., [SEAL.]  
J. P., (Name of county.)

FFF.—(Section 872.)

WARRANT OF COMMITMENT UPON A CONVICTION FOR A  
PENALTY IN THE FIRST INSTANCE.

Canada, )  
Province of )  
County of )

To all or any of the constables and other peace officers in the said county of \_\_\_\_\_, and to the keeper of the common gaol of the said county of \_\_\_\_\_, at \_\_\_\_\_ in the said county of \_\_\_\_\_

Whereas A. B., late of \_\_\_\_\_, (labourer), was on this day convicted before the undersigned \_\_\_\_\_, a justice of the peace in and for the said county, for that (stating the offence, as in the conviction), and it was thereby adjudged that the said A. B., for his offence, should forfeit and pay the sum of \_\_\_\_\_ (\$c., as in the conviction), and should pay to the said C. D. the sum of \_\_\_\_\_, for his costs in that behalf; and it was thereby further adjudged that if the said several sums were not paid (forthwith) the said A. B. should be imprisoned in the common gaol of the county, at \_\_\_\_\_, in the said \_\_\_\_\_ county

county of \_\_\_\_\_ (and there kept at hard labour) for the term of \_\_\_\_\_, unless the said several sums (and the costs and charges of conveying the said A. B. to the said common gaol) were sooner paid; And whereas the time in and by the said conviction appointed for the payment of the said several sums has elapsed, but the said A. B. has not paid the same, or any part thereof, but therein has made default: These are, therefore, to command you, the said peace officers, or any one of you, to take the said A. B., and him safely to convey to the common gaol at \_\_\_\_\_ aforesaid, and there to deliver him to the said keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said A. B. into your custody in the said common gaol, there to imprison him (and keep him at hard labour) for the term of \_\_\_\_\_, unless the said several sums (and costs and charges of carrying him to the said common gaol, amounting to the further sum of \_\_\_\_\_), are sooner paid unto you, the said keeper; and for your so doing, this shall be your sufficient warrant.

Given under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_, in the county aforesaid.

J. S., [SEAL.]

J. P., (Name of county.)

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GGG.—(Section 872.)

WARRANT OF COMMITMENT ON AN ORDER IN THE FIRST INSTANCE.

Canada, }  
 Province of }  
 County of }

To all or any of the constables and other peace officers in the said county of \_\_\_\_\_, and to the keeper of the common gaol of the county of \_\_\_\_\_, at \_\_\_\_\_ in the said county of \_\_\_\_\_.

Whereas, on \_\_\_\_\_ last past, complaint was made before the undersigned \_\_\_\_\_, a justice of the peace in and for the said county of \_\_\_\_\_, for that (&c., as in the order), and afterwards, to wit, on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ A. B. and C. D. appeared before me, the said justice (or as it is in the order), and thereupon having considered the matter of the complaint, I adjudged the said A. B. to pay the said C. D. the sum of \_\_\_\_\_, on or before the \_\_\_\_\_ day of \_\_\_\_\_ then next, and also to pay to the said C. D. the sum of \_\_\_\_\_, for his costs in that behalf; and I also thereby adjudged that if the said several sums were not paid on or before the \_\_\_\_\_ day of \_\_\_\_\_ then next, the said A. B. should be imprisoned in the \_\_\_\_\_



the common gaol of the county of \_\_\_\_\_, at \_\_\_\_\_, in the said county of \_\_\_\_\_ (and there be kept at hard labour) for the term of \_\_\_\_\_, unless the said several sums (and the costs and charges of conveying the said A. B. to the said common gaol, *as the case may be*) were sooner paid; And whereas the time in and by the said order appointed for the payment of the said several sums of money has elapsed, but the said A. B. has not paid the same, or any part thereof, but therein has made default: These are, therefore, to command you, the said peace officers, or any of you, to take the said A. B. and him safely to convey to the said common gaol, at aforesaid, and there to deliver him to the keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said A. B. into your custody in the said common gaol, there to imprison him (and keep him at hard labour) for the term of \_\_\_\_\_, unless the said several sums (and the costs and charges of conveying him to the said common gaol, amounting to the further sum of \_\_\_\_\_), are sooner paid unto you the said keeper; and for your so doing, this shall be your sufficient warrant.

Given under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, at \_\_\_\_\_, in the county aforesaid.

J. S., [SEAL.]  
J. P., (*Name of county.*)

HHH.—(*Section 874.*)

ENDORSEMENT IN BACKING A WARRANT OF DISTRESS.

Canada, }  
Province of }  
County of }

Whereas proof upon oath has this day been made before me \_\_\_\_\_, a justice of the peace in and for the said county, that the name of J. S. to the within warrant subscribed is of the handwriting of the justice of the peace within mentioned, I do therefore authorize W. T., who brings me this warrant, and all other persons to whom this warrant was originally directed, or by whom the same may be lawfully executed, and also all peace officers in the said county of \_\_\_\_\_, to execute the same within the said county.

Given under my hand, this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_.

O. K.,  
J. P., (*Name of county.*)  
III.

## III.—(Section 872.)

## CONSTABLE'S RETURN TO A WARRANT OF DISTRESS.

I, W. T., constable, of \_\_\_\_\_, in the county of \_\_\_\_\_, hereby certify to J. S., Esquire, a justice of the peace in and for the county of \_\_\_\_\_, that by virtue of this warrant I have made diligent search for the goods and chattels of the within mentioned A. B., and that I can find no sufficient goods or chattels of the said A. B. whereon to levy the sums within mentioned.

Witness my hand, this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_.

W. T.

## JJJ.—(Section 872.)

## WARRANT OF COMMITMENT FOR WANT OF DISTRESS.

Canada, }  
Province of }  
County of }

To all or any of the constables and other peace officers in the county of \_\_\_\_\_, and to the keeper of the common gaol of the said county of \_\_\_\_\_, at \_\_\_\_\_, in the said county.

Whereas (&c., as in either of the foregoing distress warrants, DDD or EEE, to the asterisk,\* and then thus): And whereas, afterwards on the \_\_\_\_\_ day of \_\_\_\_\_, in the year aforesaid, I, the said justice, issued a warrant to all or any of the peace officers of the county of \_\_\_\_\_, commanding them, or any of them, to levy the said sums of \_\_\_\_\_ and \_\_\_\_\_ by distress and sale of the gods and chattels of the said A. B.; And whereas it appears to me, as well by the return of the said warrant of distress, by the peace officer who had the execution of the same, as otherwise, that the said peace officer has made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the sums above mentioned could be found: These are, therefore, to command you, the said peace officers, or any one of you, to take the said A. B., and him safely to convey to the common gaol at \_\_\_\_\_, aforesaid, and there deliver him to the said keeper, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said A.B. into your custody, in the said common gaol,

gaol, there to imprison him (and keep him at hard labour) for the term of \_\_\_\_\_, unless the said several sums, and all the costs and charges of the said distress (and of the commitment and conveying of the said A. B. to the said common gaol) amounting to the further sum of \_\_\_\_\_, are sooner paid unto you, the said keeper; and for so doing this shall be your sufficient warrant.

Given under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_, in the county aforesaid,

J. S., [SEAL.]

J. P., (Name of county.)

### KKK.—(Section 873.)

#### WARRANT OF DISTRESS FOR COSTS UPON AN ORDER FOR DISMISSAL OF AN INFORMATION OR COMPLAINT.

Canada, )  
Province of )  
District of )

To all or any of the constables and other peace officers in the said county of \_\_\_\_\_.

Whereas on \_\_\_\_\_ last past, information was laid (or complaint was made) before \_\_\_\_\_ a justice of the peace in and for the said county of \_\_\_\_\_, for that (&c., as in the order of dismissal) and afterwards, to wit, on \_\_\_\_\_, at \_\_\_\_\_, both parties appearing before \_\_\_\_\_, in order that (I) should hear and determine the same, and the several proofs adduced to (me) in that behalf, being by (me) duly heard and considered, and it manifestly appearing to (me) that the said information (or complaint) was not proved, (I) therefore dismissed the same and adjudged that the said C. D. should pay to the said A. B. the sum of \_\_\_\_\_, for his costs incurred by him in his defence in that behalf; and (I) ordered that if the said sum for costs was not paid (forthwith) the same should be levied on the goods and chattels of the said C. D., and (I) adjudged that in default of sufficient distress in that behalf the said C. D. should be imprisoned in the common gaol of the said county of \_\_\_\_\_, at \_\_\_\_\_, in the said county of \_\_\_\_\_ (and there kept at hard labour) for the space of \_\_\_\_\_, unless the said sum for costs, and all costs and charges of the said distress, and of the commitment and conveying of the said A. B. to the said common gaol, were sooner paid; \* And whereas the said C. D. being now required to pay to the said A. B. the said sum for costs, has not paid the same, or any part thereof, but therein has made default: These are, therefore, to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said C. D., and if within the term of \_\_\_\_\_ days next after the making of such distress, the said last mentioned

tioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then to sell the said goods and chattels so by you distrained, and to pay the money arising from such sale to (*me*) that (I), may pay and apply the same as by law directed, and may render the overplus (if any) on demand to the said C. D., and if no distress can be found, then to certify the same unto *me* (or to any other justice of the peace for the same county), that such proceedings may be had therein as to law appertain.

Given under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_, in the county aforesaid.

J. S., [SEAL.]

J. P., (*Name of county.*)

### LLL.—(*Section 873.*)

#### WARRANT OF COMMITMENT FOR WANT OF DISTRESS.

Canada, )  
Province of , }  
County of . )

To all or any of the constables and other peace officers in the said county of \_\_\_\_\_, and to the keeper of the common gaol of the said county of \_\_\_\_\_, at \_\_\_\_\_, in the said county of \_\_\_\_\_

Whereas (&c., as in form KKK to the asterisk, \* and then thus): And whereas afterwards, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year aforesaid, I, the said justice, issued a warrant to all or any of the peace officers of the said county, commanding them, or any one of them, to levy the said sum of \_\_\_\_\_, for costs, by distress and sale of the goods and chattels of the said C. D.: And whereas it appears to me, as well by the return to the said warrant of distress of the peace officer charged with the execution of the same, as otherwise, that the said peace officer has made diligent search for the goods and chattels of the said C. D., but that no sufficient distress whereon to levy the sum above mentioned could be found: These are, therefore, to command you, the said peace officers, or any one of you, to take the said C.D., and him safely convey to the common gaol of the said county, at \_\_\_\_\_ aforesaid, and there deliver him to the keeper thereof, together with this precept: And I hereby command you, the said keeper of the said common gaol, to receive the said C.D. into your custody in the said common gaol, there to imprison him (and keep



keep him at hard labour) for the term of \_\_\_\_\_, unless the said sum, and all the costs and charges of the said distress (and of the commitment and conveying of the said C.D. to the said common gaol, amounting to the further sum of \_\_\_\_\_), are sooner paid unto you the said keeper; and for your so doing, this shall be your sufficient warrant.

Given under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_, in the county aforesaid.

J. S., [SEAL.]  
J. P., (*Name of county.*)

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### MMM.—(*Section 878.*)

#### CERTIFICATE OF NON-APPEARANCE TO BE ENDORSED ON THE DEFENDANT'S RECOGNIZANCE.

I hereby certify that the said A.B. has not appeared at the time and place in the said condition mentioned, but therein has made default, by reason whereof the within written recognizance is forfeited.

J. S., [SEAL.]  
J. P., (*Name of county.*)

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### NNN.—(*Section 880.*)

#### NOTICE OF APPEAL AGAINST A CONVICTION OR ORDER.

To C. D., of \_\_\_\_\_, and \_\_\_\_\_ (*the names and additions of the parties to whom the notice of appeal is required to be given.*)

Take notice, that I, the undersigned, A.B., of \_\_\_\_\_ intend to enter and prosecute an appeal at the next General Sessions of the Peace (*or other court, as the case may be*), to be holden at \_\_\_\_\_, in and for the county of \_\_\_\_\_, against a certain conviction (*or order*) bearing date on or about the \_\_\_\_\_ day of \_\_\_\_\_, instant, and made by (you) J.S., Esquire, a justice of the peace in and for the said county of \_\_\_\_\_, whereby I, the said A. B. was convicted of having (*or was ordered*) to pay \_\_\_\_\_, (*here state the offence as in the conviction, information,*

tion, or summons, or the amount adjudged to be paid, as in the order, as correctly as possible).

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_

A. B.

MEMORANDUM.—If this notice is given by several defendants, or by an attorney, it may be adapted to the case.

000.—(Section 880.)

#### FORM OF RECOGNIZANCE TO TRY THE APPEAL.

Canada, }  
Province of }  
County of }

Be it remembered that on \_\_\_\_\_, A.B., of \_\_\_\_\_, (labourer), and L. M., of \_\_\_\_\_, (grocer), and N. O., of \_\_\_\_\_, (yeoman), personally came before the undersigned \_\_\_\_\_, a justice of the peace in and for the said county of \_\_\_\_\_, and severally acknowledged themselves to owe to our Sovereign Lady the Queen, the several sums following, that is to say, the said A.B. the sum of \_\_\_\_\_, and the said L.M. and N.O. the sum of \_\_\_\_\_, each, of good and lawful money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, her heirs and successors, if he the said A.B. fails in the condition endorsed (or hereunder written).

Taken and acknowledged the day and year first above mentioned at \_\_\_\_\_, before me.

J. S.,

J. P., (Name of county.)

The condition of the within (or the above) written recognizance is such that if the said A.B. personally appears at the (next) General Sessions of the Peace (or other court discharging the functions of the Court of General Sessions, as the case may be), to be holden at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, next, in and for the said county of \_\_\_\_\_, and tries an appeal against a certain conviction, bearing date the \_\_\_\_\_ day of \_\_\_\_\_, (instant), and made by (me) the said justice, whereby he, the said A.B., was convicted, for that he, the said A.B., did, on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, in the said county of \_\_\_\_\_, (here set out the offence as stated in the conviction); and also abides by the judgment of the court upon such appeal and pays such costs as are by the court awarded, then the said recognizance to be void, otherwise to remain in full force and virtue.

FORM

FORM OF NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO  
THE APPELLANT AND HIS SURETIES.

Take notice, that you, A. B., are bound in the sum of ,  
and you L. M. and N. O. in the sum of , each, that  
you the said A. B. will personally appear at the next General  
Sessions of the Peace to be holden at , in and for  
the said county of , and try an appeal against a  
conviction (*or order*) dated the day of  
(*instant*) whereby you A. B. were convicted of (*or ordered*,  
&c.), (*stating offence or the subject of the order shortly*), and  
abide by the judgment of the court upon such appeal and  
pay such costs as are by the court awarded, and unless you  
the said A. B. personally appear and try such appeal and  
abide by such judgment and pay such costs accordingly, the  
recognizance entered into by you will forthwith be levied  
on you, and each of you.

Dated at , this day of , one  
thousand eight hundred and .

PPP.—(*Section 898.*)

CERTIFICATE OF CLERK OF THE PEACE THAT THE COSTS OF  
AN APPEAL ARE NOT PAID.

Office of the clerk of the peace for the county of .

*Title of the Appeal.*

I hereby certify that a Court of General Sessions of the  
Peace, (*or other court discharging the functions of the Court of  
General Sessions, as the case may be*), holden at ,  
in and for the said county, on last past, an appeal  
by A. B. against a conviction (*or order*) of J. S., Esquire, a  
justice of the peace in and for the said county, came on to be  
tried, and was there heard and determined, and the said  
Court of General Sessions (*or other court, as the case may be*)  
thereupon ordered that the said conviction (*or order*) should  
be confirmed (*or quashed*), and that the said (appellant)  
should pay to the said (respondent) the sum of , for his  
costs incurred by him in the said appeal, and which sum was  
thereby ordered to be paid to the clerk of the peace for the  
said county, on or before the day of (*instant*),  
to be by him handed over to the said (respondent), and I  
further certify that the said sum for costs has not, nor has  
any part thereof, been paid in obedience to the said order.

Dated at , this day of , one  
thousand eight hundred and

G. H.,

*Clerk of the Peace.*

QQQ.

## QQQ.—(Section 898.)

WARRANT OF DISTRESS FOR COSTS OF AN APPEAL AGAINST  
A CONVICTION OR ORDER.

Canada,                    }  
 Province of                }  
 County of                 }

To all or any of the constables and other peace officers in  
 the said county of

Whereas (&c., as in the warrants of distress, DDD or EEE, and to the end of the statement of the conviction or order, and then thus): And whereas the said A. B. appealed to the Court of General Sessions of the Peace (or other court discharging the functions of the Court of General Sessions, as the case may be), for the said county, against the said conviction or order, in which appeal the said A. B. was the appellant, and the said C. D. (or J. S., Esquire, the justice of the peace who made the said conviction or order) was the respondent, and which said appeal came on to be tried and was heard and determined at the last General Sessions of the Peace (or other court, as the case may be) for the said county, holden at                   , on                   ; and the said court thereupon ordered that the said conviction (or order) should be confirmed (or quashed) and that the said (appellant) should pay to the said (respondent) the sum of                   , for his costs incurred by him in the said appeal, which said sum was to be paid to the clerk of the peace for the said county, on or before the                   day of                   , one thousand eight hundred and                   , to be by him handed over to the said C. D.; and whereas the clerk of the peace of the said county has, on the                   day of                   (*instant*), duly certified that the said sum for costs had not been paid: \* These are, therefore, to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B., and if, within the term of                   days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, are not paid, then to sell the said goods and chattels so by you distrained, and to pay the money arising from such sale to the clerk of the peace for the said county of                   , that he may pay and apply the same as by law directed; and if no such distress can be found, then to certify the same unto me or any other justice of the peace for the same county, that such proceeding may be had therein as to law appertain.

Given under my hand and seal, this                   day of                   ,  
 in the year                   , at                   , in the county aforesaid.

O. K., [SEAL.]

J. P., (*Name of county.*)

RRR.



## RRR.—(Section 898.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE  
LAST CASE.

Canada,	}
Province of	
County of	

To all or any of the constables and other peace officers in  
the said county of .

Whereas (&c., as in form QQQ, to the asterisk \* and then thus) : And whereas, afterwards, on the            day of            , in the year aforesaid, I, the undersigned, issued a warrant to all or any of the peace officers in the said county of            , commanding them, or any of them, to levy the said sum of            , for costs, by distress and sale of the goods and chattels of the said A. B. ; And whereas it appears to me, as well by the return to the said warrant of distress of the peace officer who was charged with the execution of the same, as otherwise, that the said peace officer has made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the said sum above mentioned could be found : These are, therefore, to command you, the said peace officer, or any one of you, to take the said A. B., and him safely to convey to the common gaol of the said county of            , at            aforesaid, and there deliver him to the said keeper thereof, together with this precept : And I do hereby command you, the said keeper of the said common gaol, to receive the said A. B. into your custody in the said common gaol, there to imprison him (and keep him at hard labour) for the term of            , unless the said sum and all costs and charges of the said distress (and for the commitment and conveying of the said A. B. to the said common gaol, amounting to the further sum of            ), are sooner paid unto you, the said keeper ; and for so doing this shall be your sufficient warrant.

Given under my hand and seal, this            day of            ,  
in the year            , at            , in the county aforesaid.

O. K., [SEAL.]  
J. P., (Name of county.)



as aforesaid, until such debt is satisfied unless any of such persons respectively gives sufficient security for his appearance at the said court, on the return day hereof, for which you will be held answerable ; and what you do in the premises make appear before us in our court (*as the case may be*), on the                      day of                      term next, and have then and there this writ. Witness, &c., G. H., clerk (*as the case may be*).

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## FORMS UNDER TITLE VIII.

### UUU.—(*Section 942.*)

#### CERTIFICATE OF EXECUTION OF JUDGMENT OF DEATH.

I, A. B., surgeon (*or as the case may be*) of the (*describe the prison*), hereby certify that I, this day, examined the body of C. D., on whom judgment of death was this day executed in the said prison ; and that on such examination I found that the said C. D. was dead.

(Signed),      A. B.

Dated this      day of      , in the year      .

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### VVV.—(*Section 942.*)

#### DECLARATION OF SHERIFF AND OTHERS.

We, the undersigned, hereby declare that judgment of death was this day executed on C. D., in the (*describe the prison*) in our presence.

Dated this      day of      , in the year      .

E. F., Sheriff of——

L. M., Justice of the Peace for——

G. H., Gaoler of——

&c.,                      &c

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WWW.

## WWW.—(Section 959.)

COMPLAINT BY THE PARTY THREATENED, FOR SURETIES  
FOR THE PEACE.

Canada,                     }  
 Province of                },  
 County of                    ).

The information (or complaint) of C. D., of \_\_\_\_\_, in the said county of \_\_\_\_\_, (labourer), (if preferred by an attorney or agent, say—by D. E., his duly authorized agent (or attorney), in this behalf), taken upon oath, before me, the undersigned, a justice of the peace, in and for the said county of \_\_\_\_\_, at \_\_\_\_\_ in the said county of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, who says that A. B., of \_\_\_\_\_ in the said county, did, on the \_\_\_\_\_ day of \_\_\_\_\_ (instant or last past), threaten the said C. D. in the words or to the effect following, that is to say: (*set them out, with the circumstances under which they were used*); and that from the above and other threats used by the said A. B. towards the said C. D. he, the said C. D., is afraid that the said A. B. will do him some bodily injury, and therefore prays that the said A. B. may be required to find sufficient sureties to keep the peace and be of good behaviour towards him, the said C. D.; and the said C. D. also says that he does not make this complaint against nor require such sureties from the said A. B. from any malice or ill-will, but merely for the preservation of his person from injury.

## XXX.—(Section 959.)

## FORM OF RECOGNIZANCE FOR THE SESSIONS.

Canada,                     }  
 Province of                },  
 County of                    ).

Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, A. B. of \_\_\_\_\_, (labourer), L. M. of \_\_\_\_\_, (grocer), and N. O. of \_\_\_\_\_, (butcher), personally came before (us) the undersigned, (two) justices of the peace for the county of \_\_\_\_\_, and severally acknowledged themselves to owe to our Lady the Queen the several sums following, that is to say: the said A. B. the sum of \_\_\_\_\_, and the said L. M. and N. O. the sum of \_\_\_\_\_, each, of good and lawful money of Canada, to be made and levied of their goods and chattels, lands and tenements respectively,



spectively, to the use of our said Lady the Queen, her heirs and successors, if he, the said A. B., fails in the condition endorsed (or hereunder written).

Taken and acknowledged the day and year first above mentioned, at before us.

J. S.,

J. T.,

J. P.'s, (*Name of county.*)

The condition of the within (or above) written recognizance is such that if the within bound A. B. (of, &c.), \* appears at the next Court of General Sessions of the Peace, (or other court discharging the functions of the Court of General Sessions), to be holden in and for the said county of , to do and receive what is then and there enjoined him by the court, and in the meantime \* keeps the peace and is of good behaviour towards Her Majesty and her liege people, and specially towards C. D. (of, &c.) for the term of now next ensuing, then the said recognizance to be void, otherwise to stand in full force and virtue.

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The words between the asterisks \*\* to be used only where the principal is required to appear at the sessions or such other court.

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### YYY.—(*Section 959.*)

#### FORM OF COMMITMENT IN DEFAULT OF SURETIES.

Canada,                     )  
Province of                }  
County of                 .

To all or any of the other peace officers in the county of , and to the keeper of the common gaol of the said county, at , in the said county.

Whereas on the day of (*instant*), complaint on oath was made before the undersigned (or J. L., Esquire, a justice of the peace in and for the said county of , by C. D., of , in the said county, (*labourer*), that A. B., of (&c.), on the day of , at aforesaid, did threaten (&c., *follow to the end of complaint, as in form above, in the past tense, then*): And whereas the said A. B. was this day

day brought and appeared before me, the said justice (or J. L., Esquire, a justice of the peace in and for the said county of                   ), to answer unto the said complaint; and having been required by me to enter into his own recognizance in the sum of                   , with two sufficient sureties in the sum of                   each, \* as well for his appearance at the next General Sessions of the Peace (or other court discharging the functions of the Court of General Sessions, or as the case may be), to be held in and for the said county of                   , to do what shall be then and there enjoined him by the court, as also in the meantime \* to keep the peace and be of good behaviour towards Her Majesty and her liege people, and especially towards the said C. D., has refused and neglected, and still refuses and neglects, to find such sureties: These are, therefore, to command you, and each of you, to take the said A. B., and him safely to convey to the (common gaol) at                   aforesaid, and there to deliver him to the keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said (common gaol), to receive the said A. B. into your custody in the said (common gaol), there to imprison him until the said next General Sessions of the Peace (or the next term or sitting of the said court discharging the functions of the Court of General Sessions, or as the case may be), unless he, in the meantime, finds sufficient sureties as well for his appearance at the said Sessions (or court) as in the meantime to keep the peace as aforesaid.

Given under my hand and seal, this                   day of                   ,  
in the year                   , at                   , in the county aforesaid.

J. S., [SEAL.]

J. P., (Name of county.)

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The words between the asterisks \*\* to be used when the recognizance is to be so conditioned.

## SCHEDULE TWO.

## ACTS REPEALED.

ACTS REPEALED.	TITLE.	EXTENT OF REPEAL.
C.S.L.C., c. 10	An Act respecting seditious and unlawful Associations and oaths.	Secs. 1, 2, 3 & 4.
R. S. C., c. 32	An Act respecting the Customs.	Sec. 213.
" 34	An Act respecting the Inland Revenue.	Secs. 98 & 99.
" 36	An Act respecting the Postal Service.	Secs. 79 to 81, 83, 84, 88, 90, 91, 96, 103, 107, 110 & 111.
" 38	An Act respecting Government Railways.	Sec. 62.
" 41	An Act respecting the Militia and Defence of Canada.	Sec. 109.
" 43	An Act respecting Indians.	Secs. 106(ss.2)& 111.
" 65	An Act respecting Immigration and Immigrants.	Sec. 37.
" 81	An Act respecting Wrecks, Casualties and Salvage.	Secs. 35 to 37.
" 141	An Act respecting Extra-judicial oaths.	Secs. 1 & 2.
" 145	An Act respecting Accessories.	The whole Act.
" 146	An Act respecting Treason and other offences against the Queen's authority.	The whole Act, except Secs. 6 & 7.
" 147	An Act respecting Riots, unlawful assemblies and breaches of the peace.	The whole Act.
" 148	An Act respecting the improper use of firearms and other weapons.	The whole Act, except Sec. 7.
" 149	An Act respecting the seizure of arms kept for dangerous purposes.	The whole Act, except Secs. 5 & 7.
" 150	An Act respecting Explosive Substances.	The whole Act.
" 152	An Act respecting the preservation of peace at Public Meetings.	The whole Act, except Secs. 1, 2 & 3.
" 153	An Act respecting Prize-fighting	The whole Act, except Secs. 6, 7 & 10.
" 154	An Act respecting Perjury.	The whole Act, except Sec. 4.
" 155	An Act respecting Escapes and Rescues.	The whole Act.
" 156	An Act respecting offences against Religion.	The whole Act.
" 157	An Act respecting offences against Public Morals and Public Convenience.	The whole Act.
" 158	An Act respecting Gaming-houses.	The whole Act, except Secs. 9 & 10.
" 159	An Act respecting Lotteries, Betting and Pool-selling.	The whole Act.
" 160	An Act respecting Gambling in public conveyances.	The whole Act.
" 161	An Act respecting offences relating to the Law of Marriage.	The whole Act.
" 162	An Act respecting offences against the Person.	The whole Act.
" 163	An Act respecting Libel.	The whole Act, except Secs. 6 & 7.
" 164	An Act respecting Larceny and similar offences.	The whole Act.
" 165	An Act respecting Forgery.	The whole Act.
" 167	An Act respecting offences relating to the Coin.	The whole Act, except Secs. 26 & 29 to 34 inclusive.
" 168	An Act respecting malicious injuries to Property.	The whole Act.
" 169	An Act respecting offences relating to the Army and Navy.	The whole Act, except Sec. 9.
" 171	An Act respecting the protection of Property of Seamen in the Navy.	The whole Act.
" 172	An Act respecting Cruelty to Animals.	The whole Act, except Sec. 7.
" 173	An Act respecting Threats, Intimidation and other offences.	The whole Act, except Sec. 12(ss.5).
" 174	An Act respecting Procedure in Criminal Cases.	The whole Act.
" 176	An Act respecting the summary administration of Criminal Justice.	The whole Act.

ACTS

ACTS REPEALED—*Concluded.*

ACTS REPEALED.	TITLE.	EXTENT OF REPEAL.
R. S. C., c. 177	An Act respecting Juvenile Offenders.	The whole Act.
" 178	An Act respecting summary proceedings before Justices of the Peace.	The whole Act.
" 179	An Act respecting Recognizances.	The whole Act.
" 180	An Act respecting Fines and Forfeitures.	The whole Act.
" 181	An Act respecting Punishments, Pardons and the Commutation of Sentences.	The whole Act.
" 185	An Act respecting Actions against persons administering the Criminal Law.	The whole Act.
50-51 V., c. 33	An Act to amend the Indian Act.	Sec. 11.
" 45	An Act respecting Public Stores.	The whole Act.
" 46	An Act respecting the conveyance of liquors on board Her Majesty's Ships in Canadian Waters.	The whole Act.
" 48	An Act to amend the Act respecting offences against Public Morals and Public Convenience.	The whole Act.
" 49	An Act to amend the Revised Statutes, Chapter one hundred and seventy-three, respecting Threats, Intimidation and other offences.	The whole Act.
" 50	An Act to amend the Law respecting Procedure in Criminal Cases.	The whole Act.
51 V., c. 29	An Act respecting Railways.	Sec. 297.
" 40	An Act respecting the advertising of Counterfeit Money.	The whole Act.
" 41	An Act to amend the law relating to Fraudulent Marks on Merchandise.	The whole Act, except Secs. 15, 18 & 22.
" 42	An Act respecting gaming in Stocks and Merchandise.	The whole Act.
" 43	An Act further to amend the Law respecting Procedure in Criminal Cases.	The whole Act.
" 44	An Act further to amend <i>The Criminal Procedure Act</i> .	The whole Act.
" 45	An Act to amend Chapter one hundred and seventy-eight of the Revised Statutes of Canada: <i>The Summary Convictions Act</i> .	The whole Act.
" 47	An Act to amend the Revised Statutes of Canada, Chapter one hundred and eighty-one, respecting Punishments, Pardons and the Commutation of Sentences.	The whole Act.
52 V., c. 22	An Act to amend the Revised Statutes, Chapter seventy-seven, respecting the safety of Ships.	Sec. 3.
" 25	An Act to amend the Revised Statutes respecting the North-west Mounted Police Force.	Sec. 4.
" 40	An Act respecting Rules of Court in relation to Criminal Matters.	The whole Act.
" 41	An Act for the prevention and suppression of Combinations formed in restraint of Trade.	The whole Act, except Secs. 4 & 5.
" 42	An Act respecting Corrupt Practices in Municipal Affairs.	The whole Act.
" 44	An Act to permit the conditional release of first offenders in certain cases.	The whole Act.
" 45	An Act to amend <i>The Summary Convictions Act</i> , Chapter one hundred and seventy-eight of the Revised Statutes, and the Act amending the same.	The whole Act.
" 46	An Act to amend <i>The Summary Trials Act</i> .	The whole Act.
" 47	An Act to make further provision respecting the Speedy Trial of certain Indictable Offences.	The whole Act.
53 V., c. 10	An Act to prevent the disclosure of official documents and information.	The whole Act.
" 31	An Act respecting Banks and Banking.	Sec. 63.
" 37	An Act further to amend the Criminal Law.	The whole Act, except Secs. 1, 2, 6, 32, to end.
" 38	An Act to amend the Public Stores Act.	The whole Act.
54-55 V., c. 23	An Act respecting Frauds upon the Government.	The whole Act.



## APPENDIX.

ACTS AND PARTS OF ACTS WHICH ARE NOT AFFECTED BY  
THIS ACT.

R.S.C., CHAPTER 50.

An Act respecting the North-west Territories.

**101.** In this section—

(a.) The expression “improved arm” means and includes all arms except smooth bore shot guns;

(b.) The expression “ammunition” means fixed ammunition or ball cartridge.

2. Every person who, in the territories,—

(a.) Without the permission in writing (the proof of which shall be on him) of the Lieutenant-Governor, or of a commissioner appointed by him to give such permission, has in his possession or sells, exchanges, trades, barterers or gives to, or with any person, any improved arm or ammunition, or—

(b.) Having such permission, sells, exchanges, trades, barterers or gives any such arm or ammunition to any person not lawfully authorized to possess the same,—

Shall, on summary conviction before a judge of the Supreme Court or two justices of the peace, be liable to a penalty not exceeding two hundred dollars, or to imprisonment for any term not exceeding six months, or to both.

3. All arms and ammunition which are in the possession of any person, or which are sold, exchanged, traded, bartered or given to or with any person in violation of this section, shall be forfeited to the Crown, and may be seized by any constable or other peace officer; and any judge of the Supreme Court or justice of the peace may issue a search warrant to search for and seize the same, as in the case of stolen goods.

4. The Governor in Council may, from time to time, make regulations respecting:—

(a.) The granting of permission to sell, exchange, trade, barter, give or possess arms or ammunition;

(b.) The fees to be taken in respect thereof;

(c.) The returns to be made respecting permissions granted; and—

(d.) The disposition to be made of forfeited arms and ammunition.

5. The provisions of this section respecting the possession of arms and ammunition shall not apply to any officer or man of Her Majesty's forces, of the Militia force, or of the North-west Mounted Police force.

6. The Governor in Council may, from time to time, declare by proclamation that upon and after a day therein named this section shall be in force in the territories, or in any place or places therein in such proclamation designated ; and upon and after such day but not before, the provisions of this section shall take effect and be in force accordingly.

7. The Governor in Council may, in like manner, from time to time, declare this section to be no longer in force in any such place or places, and may again, from time to time, declare it to be in force therein.

8. All courts, judges and justices of the peace shall take judicial notice of any such proclamation.

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R.S.C., CHAPTER 141.

An Act respecting Extra-judicial Oaths.

4. Any affidavit, affirmation or declaration required by any fire, life or marine insurance company, authorized by law to do business in Canada, in regard to any loss of property or life insured or assured therein, may be taken before any commissioner authorized to take affidavits, or before any justice of the peace or before any notary public for any province of Canada ; and any such officer is hereby required to take such affidavit, affirmation or declaration.

SCHEDULE.

I, A. B., do solemnly declare that (*state the fact or facts declared to*), and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the *Act respecting Extra-judicial Oaths*.

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R.S.C., CHAPTER 146.

An Act respecting Treason and other Offences against the Queen's Authority.

6. If any person, being a citizen or subject of any foreign state or country at peace with Her Majesty, is or continues in arms against Her Majesty, within Canada, or commits any act of hostility therein, or enters Canada with design or intent to levy war against Her Majesty, or to commit any felony therein, for which any person would, in Canada, be liable to suffer death, the Governor General may order the assembling of a militia general court-martial for the trial of such person, under *The Militia Act* ; and upon being found guilty by such court-martial of offending against the provisions of this section, such person shall be sentenced by such court-martial to suffer death, or such other punishment as the court awards.

7. Every subject of Her Majesty, within Canada, who levies war against Her Majesty, in company with any of the subjects or citizens of any foreign state or country then at peace with Her Majesty, or enters Canada in company with any such subjects or citizens with intent to levy war on Her Majesty, or to commit any such act of felony as aforesaid, or who, with the design or intent to aid and assist, joins himself to any person or persons whomsoever, whether subjects or aliens, who have entered Canada with design or intent to levy war on Her Majesty, or to commit any such felony within the same, may be tried and punished by a militia court-martial, in the same manner as any citizen or subject of a foreign state or country at peace with Her Majesty may be tried and punished under the next preceding section.

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R.S.C., CHAPTER 148.

An Act respecting the improper use of Firearms and other Weapons.

7. The court or justice before whom any person is convicted of any offence against the provisions of the preceding sections, shall impound the weapon for carrying which such person is convicted, and if the weapon is not a pistol, shall cause it to be destroyed; and if the weapon is a pistol, the court or justice shall cause it to be handed over to the corporation of the municipality in which the conviction takes place, for the public uses of such corporation.

2. If the conviction takes place where there is no municipality, the pistol shall be handed over to the Lieutenant-Governor of the province in which the conviction takes place, for the public uses thereof in connection with the administration of justice therein.

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R.S.C., CHAPTER 149.

An Act respecting the seizure of Arms kept for dangerous purposes.

5. All justices of the peace in and for any district, county, city, town or place, in Canada, shall have concurrent jurisdiction as justices of the peace, with the justices of any other district, county, city, town or place, in all cases with respect to the carrying into execution the provisions of this Act, and with respect to all matters and things relating to the preservation of the public peace under this Act, as fully and effectually as if each of such justices was  
in

in the commission of the peace, or was *ex officio* a justice of the peace for each of such districts, counties, cities, towns or places.

7. The Governor in Council may, from time to time, by proclamation, suspend the operation of this Act in any province of Canada or in any particular district, county or locality specified in the proclamation; and from and after the period specified in any such proclamation, the powers given by this Act shall be suspended in such province, district, county or locality; but nothing herein contained shall prevent the Governor in Council from again declaring, by proclamation, that any such province, district, county or locality shall be again subject to this Act and the powers hereby given, and upon such proclamation this Act shall be revived and in force accordingly.

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R.S.C., CHAPTER 151.

An Act respecting the Preservation of Peace in the vicinity of Public Works.

INTERPRETATION.

1. In this Act, unless the context otherwise requires,—

(a.) The expression “this Act” means such section or sections thereof as are in force, by virtue of any proclamation, in the place or places with reference to which the Act is to be construed and applied;

(b.) The expression “commissioner” means a commissioner under this Act;

(c.) The expression “weapon” includes any gun or other firearm, or air-gun or any part thereof, or any sword, sword-blade, bayonet, pike, pike-head, spear, spear-head, dirk, dagger, or other instrument intended for cutting or stabbing, or any steel or metal knuckles, or other deadly or dangerous weapon, and any instrument or thing intended to be used as a weapon, and all ammunition which may be used with or for any weapon;

(d.) The expression “intoxicating liquor” means and includes any alcoholic, spirituous, vinous, fermented or other intoxicating liquor, or any mixed liquor, a part of which is spirituous or vinous, fermented or otherwise intoxicating;

(e.) The expression “district, county or place,” includes any division of any province for the purposes of the administration of justice in the matter to which the context relates;

(f.)



(f.) The expression "public work" means and includes any railway, canal, road, bridge or other work of any kind, and any mining operation constructed or carried on by the Government of Canada, or of any province of Canada, or by any municipal corporation, or by any incorporated company, or by private enterprise.

#### PROCLAMATION.

2. The Governor in Council may, as often as occasion requires, declare, by proclamation, that upon and after a day therein named, this Act, or any section or sections thereof, shall be in force in any place or places in Canada in such proclamation designated, within the limits or in the vicinity whereof any public work is in course of construction, or in such places as are in the vicinity of any public work, within which he deems it necessary that this Act, or any section or sections thereof, should be in force, and this Act, or any such section or sections thereof, shall, upon and after the day named in such proclamation, take effect within the places designated therein.

2. The Governor in Council may, in like manner, from time to time, declare this Act, or any section or sections thereof, to be no longer in force in any such place or places,—and may again, from time to time, declare this Act, or any section or sections thereof, to be in force therein.

3. No such proclamation shall have effect within the limits of any city.

4. All courts, magistrates and justices of the peace shall take judicial notice of every such proclamation.

#### WEAPONS.

3. On or before the day named in such proclamation, every person employed on or about any public work, to which the same relates, shall bring and deliver up, to some commissioner or officer appointed for the purposes of this Act, every weapon in his possession, and shall obtain from such commissioner or officer a receipt for the same.

4. Every weapon found in the possession of any person employed, as aforesaid, after the day named in any proclamation and within the limits designated in such proclamation, may be seized by any justice of the peace, commissioner, constable or other peace officer,—and shall be forfeited to the use of Her Majesty.

5. Every one employed upon or about any public work, within the place or places in which this Act is then in force who, upon or after the day named in such proclamation, keeps or has in his possession or under his care or control, any such place, any weapon, shall incur a penalty

not exceeding four dollars and not less than two dollars for every such weapon found in his possession.

**6.** Every one who, for the purpose of defeating this Act, receives or conceals, or aids in receiving or concealing, or procures to be received or concealed, within any place in which this Act is at the time in force, any weapon belonging to or in the custody of any person employed on or about any public work, shall incur a penalty not exceeding one hundred dollars and not less than forty dollars, and a moiety of such penalty shall belong to the informer and the other moiety to Her Majesty, for the public uses of Canada.

**7.** Any commissioner or justice of the peace, constable or peace officer, or any person acting under a warrant, in aid of any constable or peace officer, may arrest and detain any person employed on any public work, found carrying any weapon, within any place in which this Act is, at the time, in force, at such time and in such manner as, in the judgment of such commissioner, justice of the peace, constable or peace officer, or person acting under a warrant, affords just cause of suspicion that it is carried for purposes dangerous to the public peace; and every one so employed, who so carries any such weapon, is guilty of a misdemeanour,—and the justice of the peace or commissioner arresting such person, or before whom he is brought under such a warrant, may commit him for trial for a misdemeanour, unless he gives sufficient bail for his appearance at the next term or sitting of the court before which the offence can be tried, to answer to any indictment to be then preferred against him.

**8.** Any commissioner appointed under this Act, or any justice of the peace having authority within the place in which this Act is at the time in force, upon the oath of a credible witness that he believes that any weapon is in the possession of any person or in any house or place contrary to the provisions of this Act, may issue his warrant to any constable or peace officer to search for and seize the same,—and he, or any person in his aid, may search for and seize the same in the possession of any person, or in any such house or place.

**9.** If admission to any such house or place is refused after demand, such constable or peace officer, and any person in his aid, may enter the same by force, by day or by night, and seize any such weapon and deliver it to such commissioner; and unless the person in whose possession or in whose house or premises the same is found, within four days next after the seizure, proves to the satisfaction of such commissioner or justice of the peace that the weapon so seized was not in his possession or in his house or place contrary to the meaning of this Act, such weapon shall be forfeited to the use of Her Majesty.

**10.** All weapons declared forfeited under this Act shall be sold or destroyed under the direction of the commissioner by whom or by whose authority the same are seized, and the proceeds of such sale, after deducting necessary expenses, shall be received by such commissioner and paid over by him to the Minister of Finance and Receiver General, for the public uses of Canada.

**11.** Whenever this Act ceases to be in force within the place where any weapon has been delivered and detained in pursuance thereof, or whenever the owner or person lawfully entitled to any such weapon satisfies the commissioner that he is about to remove immediately from the limits within which this Act is at the time in force, the commissioner may deliver up to the owner or person authorized to receive the same, any such weapon, on production of the receipt given for it.

**12.** Every commissioner under this Act shall make a monthly return to the Secretary of State of all weapons delivered to him, and by him detained under this Act.

#### INTOXICATING LIQUOR.

**13.** Upon and after the day named in such proclamation and during such period as such proclamation remains in force, no person shall, at any place within the limits specified in such proclamation, sell, barter or, directly or indirectly, for any matter, thing, profit or reward, exchange, supply or dispose of, any intoxicating liquor; nor expose, keep or have in possession any intoxicating liquor intended to be dealt with in any such way.

2. The provisions of this section shall not extend to any person selling intoxicating liquor by wholesale, and not retailing the same, if such person is a licensed distiller or brewer

**14.** Every one who, by himself, his clerk, servant, agent or other person, violates any of the provisions of the next preceding section, is guilty of an offence against this Act, and, on a first conviction, shall be liable to a penalty of forty dollars and costs, and, in default of payment, to imprisonment for a term not exceeding three months,— and on every subsequent conviction, to the said penalty and the said imprisonment in default of payment, and also to further imprisonment for a term not exceeding six months.

**15.** Every clerk, servant, agent or other person who, being in the employment of, or on the premises of another person, violates or assists in violating any of the provisions of the thirteenth section of this Act, for the person in whose employment or on whose premises he is, shall be equally  
24½ guilty

guilty with the principal offender, and shall be liable to the penalties mentioned in the next preceding section.

**16.** If any person makes oath or affirmation before any commissioner or justice of the peace, that he has reason to believe, and does believe that any intoxicating liquor with respect to which a violation of the provisions of the thirteenth section of this Act has been committed or is intended to be committed is, within the limits specified in any proclamation by which this Act has been proclaimed to be in force, on board of any steam-boat, vessel, boat, canoe, raft or other craft, or in or about any building or premises, or in any carriage, vehicle or other conveyance, or at any place, the commissioner or justice of the peace shall issue a search warrant to any sheriff, police officer, constable or bailiff who shall forthwith proceed to search the steam-boat, vessel, boat, canoe, raft, other craft, building, premises, carriage, vehicle, conveyance or place described in such search warrant; and if any intoxicating liquor is found therein or thereon the person executing such search warrant shall seize the intoxicating liquor and the barrels, casks, jars, bottles or other packages in which it is contained and shall keep it and them secure until final action is had thereon.

2. No dwelling-house in which, or in part of which or on the premises whereof, a shop or a bar is not kept, shall be searched, unless the said informant also makes oath or affirmation that some offence in violation of the provisions of the thirteenth section of this Act has been committed therein or therefrom within one month next preceding the time of making his said information for a search warrant.

3. The owner, keeper or person in possession of the intoxicating liquor so seized, if he is known to the officer seizing the same, shall be summoned forthwith by the commissioner or justice of the peace who issued the search warrant to appear before such commissioner or justice of the peace; and if he fails so to appear, or if it appears to the satisfaction of such commissioner or justice of the peace that a violation of the provisions of the thirteenth section of this Act has been committed or is intended to be committed, with respect to such intoxicating liquor, it shall be declared forfeited, with any package in which it is contained, and shall be destroyed by authority of the written order to that effect of such commissioner or justice, and in his presence or in the presence of some person appointed by him to witness the destruction thereof; and the commissioner or justice or the person so appointed by him, and the officer by whom the said intoxicating liquor has been destroyed, shall jointly attest, in writing upon the back of the said order, the fact that it has been destroyed.

4. The owner, keeper or person in possession of any intoxicating liquor seized and forfeited under the provisions of this section may be convicted of an offence against the  
thirteenth



thirteenth section of this Act without any further information laid or trial had, and shall be liable to the penalties mentioned in the fourteenth section of this Act.

**17.** If the owner, keeper or possessor of intoxicating liquor seized under the next preceding section is unknown to the officer seizing the same, it shall not be condemned and destroyed until the fact of such seizure, with the number and description of the packages, as near as may be, has been advertised for two weeks, by posting up a written or a printed notice and description thereof, in at least three public places of the place where it was seized.

2. If it is proved within such two weeks, to the satisfaction of the commissioner or justice by whose authority such intoxicating liquor was seized, that with respect to such intoxicating liquor no violation of the provisions of the thirteenth section of this Act has been committed or is intended to be committed, it shall not be destroyed, but shall be delivered to the owner, who shall give his receipt therefor in writing upon the back of the search warrant, which shall be returned to the commissioner or justice who issued the same; but if, after such advertisement as aforesaid, it appears to such commissioner or justice that a violation of the provisions of the thirteenth section of this Act has been committed or is intended to be committed, then such intoxicating liquor, with any package in which it is contained, shall be forfeited and destroyed, according to the provisions of the next preceding section.

**18.** Any payment or compensation, whether in money or securities for money, labour or property of any kind, for intoxicating liquor sold, bartered, exchanged, supplied or disposed of, contrary to the provisions of the thirteenth section of this Act, shall be held to have been criminally received without consideration, and against law, equity and good conscience, and the amount or value thereof may be recovered from the receiver by the person making, paying or furnishing such payment or compensation; and all sales, transfers, conveyances, liens and securities of every kind, which either in whole or in part have been made or given for or on account of intoxicating liquor sold, bartered, exchanged, supplied or disposed of contrary to the provisions of the thirteenth section of this Act, shall be void against all persons, and no right shall be acquired thereby; and no action of any kind shall be maintained, either in whole or in part, for or on account of intoxicating liquor sold, bartered, exchanged, supplied or disposed of, contrary to the provisions of the said section.

**19.** In any prosecution under this Act for any offence with respect to intoxicating liquor, it shall not be necessary that any witness should depose directly to the precise description of the liquor with respect to which the offence has been

been committed, or to the precise consideration therefor, or to the fact of the offence having been committed with his participation or to his own personal and certain knowledge ; but the commissioner or justice of the peace trying the case, so soon as it appears to him that the circumstances in evidence sufficiently establish the offence complained of, shall put the defendant on his defence, and in default of such evidence being rebutted, shall convict the defendant accordingly.

#### GENERAL PROVISIONS.

**20.** Any commissioner or justice of the peace may hear and determine, in a summary manner, any case arising within his jurisdiction under this Act ; and every person making complaint against any other person for violating this Act, or any provision thereof, before such commissioner or justice, may be admitted as a witness ; and the commissioner or justice of the peace before whom the examination or trial is had, may, if he thinks there was probable cause for the prosecution, order that the defendant shall not recover costs, although the prosecution fails.

**21.** All the provisions of every law respecting the duties of justices of the peace in relation to summary convictions and orders, and to appeals from such convictions, and for the protection of justices of the peace when acting as such, or to facilitate proceedings by or before them in matters relating to summary convictions and orders, shall, in so far as they are not inconsistent with this Act, apply to every commissioner or justice of the peace mentioned in this Act or empowered to try offenders against this Act ; and every such commissioner shall be deemed a justice of the peace within the meaning of any such law, whether he is or is not a justice of the peace for other purposes.

**22.** On the trial of any proceeding, matter or question under this Act, the person opposing or defending, and the wife or husband of such person, shall be competent to give evidence.

**23.** No action or other proceeding, warrant, judgment, order or other instrument or writing, authorized by this Act or necessary to carry out its provisions, shall be held void or be allowed to fail for defect of form.

**24.** Every action brought against any commissioner or justice of the peace, constable, peace officer or other person, for anything done in pursuance of this Act, shall be commenced within six months next after the alleged cause of action arises ; and the venue shall be laid or the action instituted in the district or county or place where the cause of action arose ;  
and

and the defendant may plead the general issue and give this Act and the special matter in evidence; and if such action is brought after the time limited, or the venue is laid or the action brought in any other district, county or place than as above prescribed, the judgment or verdict shall be given for the defendant; and in such case, or if the judgment or verdict is given for the defendant on the merits, or if the plaintiff becomes nonsuited or discontinues after appearance is entered, or has judgment rendered against him on demurrer, the defendant shall be entitled to recover double costs.

## R.S.C., CHAPTER 152.

### An Act respecting the Preservation of Peace at Public Meetings.

**1.** Any justice of the peace within whose jurisdiction any public meeting is appointed to be held, may demand, have and take of and from any person attending such meeting, or on his way to attend the same, any offensive weapon, such as firearms, swords, staves, bludgeons, or the like, with which any such person is so armed, or which any such person has in his possession; and every such person who, upon such demand, declines or refuses to deliver up, peaceably and quietly, to such justice of the peace, any such offensive weapon as aforesaid, is guilty of a misdemeanour, and such justice may thereupon record the refusal of such person to deliver up such weapon, and adjudge him to pay a penalty not exceeding eight dollars,—which penalty shall be levied in like manner as penalties are levied under the *Act respecting summary proceedings before Justices of the Peace*, or such person may be proceeded against by indictment or information, as in other cases of misdemeanour; but such conviction shall not interfere with the power of such justice, or any other justice of the peace, to take such weapon, or cause the same to be taken from such person, without his consent and against his will, by such force as is necessary for that purpose.

**2.** Upon reasonable request to any justice of the peace, to whom any such weapon has been peaceably and quietly delivered as aforesaid, made on the day next after the meeting has finally dispersed, and not before, such weapon shall, if of the value of one dollar or upwards, be returned by such justice of the peace to the person from whom the same was received.

**3.** No such justice of the peace shall be held liable to return any such weapon, or make good the value thereof, if the  
same

same, by unavoidable accident, has been actually destroyed or lost out of the possession of such justice without his wilful default.

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R.S.C., CHAPTER 153.

An Act respecting Prize-fighting.

**6.** If, at any time, the sheriff of any county, place or district in Canada, any chief of police, any police officer, or any constable, or other peace officer, has reason to believe that any person within his bailiwick or jurisdiction is about to engage as principal in any prize-fight within Canada, he shall forthwith arrest such person and take him before some person having authority to try offences against this Act, and shall forthwith make complaint in that behalf, upon oath, before such person; and thereupon such person shall inquire into the charge, and if he is satisfied that the person so brought before him was, at the time of his arrest, about to engage as a principal in a prize-fight, he shall require the accused to enter into a recognizance, with sufficient sureties, in a sum not exceeding five thousand dollars and not less than one thousand dollars, conditioned that the accused will not engage in any such fight within one year from and after the date of such arrest; and in default of such recognizance, the person before whom the accused has been brought shall commit the accused to the goal of the county, district or city within which such inquiry takes place, or if there is no common goal there, then to the common goal which is nearest to the place where such inquiry is had, there to remain until he gives such recognizance with such sureties.

**7.** If any sheriff has reason to believe that a prize-fight is taking place or is about to take place within his jurisdiction as such sheriff, or that any persons are about to come into Canada at a point within his jurisdiction, from any place outside of Canada, with intent to engage in, or to be concerned in, or to attend any prize-fight within Canada, he shall forthwith summon a force of the inhabitants of his district or county sufficient for the purpose of suppressing and preventing such fight,—and he shall, with their aid, suppress and prevent the same, and arrest all persons present thereat, or who come into Canada as aforesaid, and shall take them before some person having authority to try offences against this Act, to be dealt with according to law, and fined or imprisoned, or both, or compelled to enter into recognizances with sureties, as hereinbefore provided, according to the nature of the case.

**10.** Every judge of a superior court or of a county court, judge of the sessions of the peace, stipendiary magistrate, police



police magistrate, and commissioner of police of Canada, shall, within the limits of his jurisdiction as such judge, magistrate or commissioner, have all the powers of a justice of the peace with respect to offences against this Act.

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R.S.C., CHAPTER 154.

An Act respecting Perjury.

4. Any judge of any court of record, or any commissioner before whom any inquiry or trial is held, and which he is by law required or authorized to hold, may, if it appears to him that any person has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, affirmation, declaration, deposition, examination, answer or other proceeding made or taken before him, direct such person to be prosecuted for such perjury, if there appears to such judge or commissioner a reasonable cause for such prosecution,—and may commit such person so directed to be prosecuted until the next term, sittings or session of any court having power to try for perjury, in the jurisdiction within which such perjury was committed, or permit such person to enter into a recognizance, with one or more sufficient sureties, conditioned for the appearance of such person at such next term, sittings or session, and that he will then surrender and take his trial and not depart the court without leave,—and may require any person, such judge or commissioner thinks fit, to enter into a recognizance conditioned to prosecute or give evidence against such person so directed to be prosecuted as aforesaid.

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R.S.C., CHAPTER 157.

An Act respecting Offences against Public Morals and Public Convenience.

S.      \*      \*      \*      \*      \*      \*      \*      \*

(4.) If provision is made therefor by the laws of the province in which the conviction takes place, any such loose, idle or disorderly person may, instead of being committed to the common gaol or other public prison, be committed to any house of industry or correction, almshouse, work house or reformatory prison.

R.S.C.,

## R.S.C., CHAPTER 167.

## An Act respecting Offences relating to the Coin.

**29.** Any two or more justices of the peace, on the oath of a credible person, that any copper or brass coin has been unlawfully manufactured or imported, shall cause the same to be seized and detained, and shall summon the person in whose possession the same is found, to appear before them; and if it appears to their satisfaction, on the oath of a credible witness, other than the informer, that such copper or brass coin has been manufactured or imported in violation of this Act, such justice shall declare the same forfeited, and shall place the same in safe keeping to await the disposal of the Governor General, for the public uses of Canada.

**30.** If it appears, to the satisfaction of such justices, that the person in whose possession such copper or brass coin was found, knew the same to have been so unlawfully manufactured or imported, they may condemn him to pay the penalty aforesaid with costs, and may cause him to be imprisoned for a term not exceeding two months, if such penalty and costs are not forthwith paid.

**31.** If it appears, to the satisfaction of such justices, that the person in whose possession such copper or brass coin was found was not aware of it having been so unlawfully manufactured or imported, the penalty may, on the oath of any one credible witness, other than the plaintiff, be recovered, from the owner thereof, by any person who sues for the same in any court of competent jurisdiction.

**32.** Any officer of Her Majesty's customs may seize any copper or brass coin imported or attempted to be imported into Canada in violation of this Act, and may detain the same as forfeited, to await the disposal of the Governor General, for the public uses of Canada.

**33.** Every one who utters, tenders or offers in payment any copper or brass coin, other than current copper coin, shall forfeit double the nominal value thereof.

2. Such penalty may be recovered, with costs, in a summary manner, on the oath of one credible witness, other than the informer, before any justice of the peace, who, if such penalty and costs are not forthwith paid, may cause the offender to be imprisoned for a term not exceeding eight days.

**34.** A moiety of any of the penalties imposed by any of the five sections next preceding, but not the copper or brass coins forfeited under the provisions thereof, shall belong to the informer or person who sues for the same, and the other moiety shall belong to Her Majesty, for the public uses of Canada.

## R.S.C., CHAPTER 169.

An Act respecting offences relating to the Army and Navy.

**9.** One moiety of the amount of any penalty recovered under any of the preceding sections shall be paid over to the prosecutor or person by whose means the offender has been convicted, and the other moiety shall belong to the Crown.

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## R.S.C., CHAPTER 172.

An Act respecting Cruelty to Animals.

**7.** Every pecuniary penalty recovered with respect to any such offence shall be applied in the following manner, that is to say: one moiety thereof to the corporation of the city, town, village, township, parish, or place in which the offence was committed, and the other moiety, with full costs, to the person who informed and prosecuted for the same, or to such other person as to the justices of the peace seems proper.

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## 51 VICT., CHAPTER 41.

An Act to amend the law relating to fraudulent marks on Merchandise.

**15.** Any goods or things forfeited under any provision of this Act, may be destroyed or otherwise disposed of in such a manner as the court, by which the same are declared forfeited, directs; and the court may, out of any proceeds realized by the disposition of such goods (all trade marks and trade descriptions being first obliterated), award to any innocent party any loss he may have innocently sustained in dealing with such goods.

**16.** On any prosecution under this Act the court may order costs to be paid to the defendant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively.

**18.** On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the vendor shall be deemed to warrant that the mark is a genuine trade mark and not forged or falsely applied, or that the trade description is not a false trade

trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the vendor and delivered at the time of the sale or contract to and accepted by the vendee.

22. The importation of any goods which, if sold, would be forfeited under the foregoing provisions of this Act, and of goods manufactured in any foreign state or country which bear any name or trade mark which is or purports to be the name or trade mark of any manufacturer, dealer or trader in the United Kingdom or in Canada is hereby prohibited, unless such name or trade mark is accompanied by a definite indication of the foreign state or country in which the goods were made or produced; and any person who imports or attempts to import any such goods shall be liable to a penalty of not more than five hundred dollars, nor less than two hundred dollars, recoverable on summary conviction, and the goods so imported or attempted to be imported shall be forfeited and may be seized by any officer of the Customs and dealt with in like manner as any goods or things forfeited under this Act.

2. Whenever there is on any goods a name which is identical with or a colourable imitation of the name of a place in the United Kingdom or in Canada, such name, unless it is accompanied by the name of the state or country in which it is situate, shall, unless the Minister of Customs decides that the attaching of such name is not calculated to deceive (of which matter the said Minister shall be the sole judge) be treated, for the purposes of this section, as if it was the name of a place in the United Kingdom or in Canada.

3. The Governor in Council may, whenever he deems it expedient in the public interest, declare that the provisions of the two subsections next preceding shall apply to any city or place in any foreign state or country; and after the publication in the *Canada Gazette* of the Order in Council made in that behalf, such provisions shall apply to such city or place in like manner as they apply to any place in the United Kingdom or in Canada, and may be enforced accordingly.

4. The Governor in Council may, from time to time, make regulations, either general or special, respecting the detention and seizure of goods, the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and seizure, and may, by such regulations, determine the information, notices and security to be given, and the evidence necessary for any of the purposes of this section, and the mode of verification of such evidence.

5. The regulations may provide for the reimbursing by the informant to the Minister of Customs of all expenses and damages incurred in respect of any detention made on his



his information, and of any proceedings consequent upon such detention.

6. Such regulations may apply to all goods the importation of which is prohibited by this section, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

7. All such regulations shall be published in the *Canada Gazette* and shall have force and effect from the date of such publication

**23.** This Act shall be substituted for chapter one hundred and sixty-six of the Revised Statutes, respecting the fraudulent marking of merchandise, which is hereby repealed.

#### 52 VICT., CHAPTER 41.

An Act for the Prevention and Suppression of Combinations formed in restraint of Trade.

4. Where an indictment is found against any person for offences provided against in this Act, the defendant or person accused shall have the option to be tried before the judge presiding at the court at which such indictment is found, or the judge presiding at any subsequent sitting of such court, or at any court where the indictment comes on for trial, without the intervention of a jury; and in the event of such option being exercised the proceedings subsequent thereto shall be regulated, in so far as may be applicable, by *The Speedy Trials Act*.

5. An appeal shall lie from any conviction under this Act by the judge without the intervention of a jury to the highest court of appeal in criminal matters in the province where such conviction shall have been made, upon all issues of law and fact; and the evidence taken in the trial shall form part of the record in appeal, and for that purpose the court before which the case is tried shall take note of the evidence and of all legal objections thereto.

#### 53 VICT., CHAPTER 37.

An Act further to amend the Criminal Law.

#### ESCAPES AND RESCUES.

1. Section nine of chapter one hundred and fifty-five of the Revised Statutes of Canada, *An Act respecting Escapes and Rescues*, is hereby repealed and the following section is substituted therefor:—

“9.

“9. Every one who, being sentenced to imprisonment or detention in, or being ordered to be detained in, any reformatory prison, reformatory school, industrial refuge, industrial home or industrial school, escapes or attempts to escape therefrom, is guilty of a misdemeanour, and may be dealt with as follows :—

“The offender may, at any time, be apprehended without warrant and brought before any magistrate, who, upon proof of his identity,—

“(a.) In the case of an escape or attempt to escape from a reformatory prison or a reformatory school, shall remand him thereto for the remainder of his original term of imprisonment or detention ; or,—

“(b.) In the case of an escape or attempt to escape from an industrial refuge, industrial home or industrial school,—

“(1.) May remand him thereto for the remainder of his original term of imprisonment or detention ; or,—

“(2.) If the officer in charge of such refuge, home or school certifies in writing that the removal of such offender to a place of safer or stricter imprisonment is desirable, and if the governing body of such refuge, home or school applies for such removal, and if sufficient cause therefor is shown to the satisfaction of such magistrate, may order the offender to be removed to and to be kept imprisoned, for the remainder of his original term of imprisonment or detention, in any reformatory prison or reformatory school, in which by law such offender may be imprisoned for a misdemeanour,—and when there is no such reformatory prison or reformatory school, may order the offender to be removed to and to be so kept imprisoned in any other place of imprisonment to which the offender may be lawfully committed ;

“(c.) And in any case mentioned in the preceding paragraphs (a) and (b) of this subsection, or if the term of his imprisonment or detention has expired, the magistrate may, after conviction, sentence the offender to such additional term of imprisonment or detention, as the case may be, not exceeding one year, as to such magistrate seems a proper punishment for the escape or attempt to escape.”

2. Every one who, being sentenced to imprisonment or detention in, or being ordered to be detained in any industrial refuge, industrial home or industrial school, by reason of incorrigible or vicious conduct, or with reference to the general discipline of the institution, is beyond the control of the officer in charge of such institution, is guilty of a misdemeanour, and may be dealt with as follows :—

(a.) The offender may, at any time before the expiration of his term of imprisonment or detention, be brought without warrant before any magistrate, and if the officer in charge of such refuge, home or school certifies in writing that the removal of such offender to a place of stricter imprisonment is desirable, and if the governing body of such refuge, home or

or school applies for such removal, and if sufficient cause therefor is shown to the satisfaction of such magistrate, he may order the offender to be removed to and to be kept imprisoned, for the remainder of his original term of imprisonment or detention, in any reformatory prison or reformatory school in which by law such offender may be imprisoned for a misdemeanour; and when there is no such reformatory prison or school the magistrate may order the offender to be removed to and to be so kept imprisoned in any other place of imprisonment to which the offender may be lawfully committed;

(b.) The magistrate may, after conviction, sentence the offender to such additional term of imprisonment, not exceeding one year, as to such magistrate seems a proper punishment for the incorrigible conduct of the offender.

#### PUBLIC AND REFORMATORY PRISONS.

##### *Certified Industrial Schools, Ontario.*

**32.** The Governor General, by warrant under his hand and may, at any time in his discretion (the consent of the Provincial Secretary of Ontario having been first obtained), cause any boy who is imprisoned in a reformatory or gaol in that province, under sentence for an offence against a law of Canada, and who is certified by the court, judge or magistrate by whom he was tried to have been, in the opinion of such court, judge or magistrate, at the time of his trial, of or under the age of thirteen years, to be transferred for the remainder of his term of imprisonment to a certified industrial school in the province.

**33.** Where, under any law of Canada, any boy is convicted in Ontario, whether summarily or otherwise, of any offence punishable by imprisonment, and the court, judge, stipendiary or police magistrate by whom he is so convicted is of opinion that such boy does not exceed the age of thirteen years, such court, judge or magistrate may sentence such boy to imprisonment in a certified industrial school for any term not exceeding five years and not less than two years: Provided, that no boy shall be sentenced to any such school unless public notice has been given in the *Ontario Gazette* and has not been countermanded, that such school is ready to receive and maintain boys sentenced under laws of the Dominion; Provided also, that no such boy shall be detained in any certified industrial school beyond the age of seventeen years.

##### *Halifax Industrial School.*

**34.** Section sixty-one of chapter one hundred and eighty-three of the Revised Statutes, intituled: *An Act respecting*

*ing Public and Reformatory Prisons*, is hereby repealed and the following substituted therefor:—

“**61.** Whenever any boy, who is a Protestant and a minor apparently under the age of sixteen years, is convicted in Nova Scotia of any offence for which by law he is liable to imprisonment, the judge, stipendiary magistrate, justice or justices by whom he is so convicted may sentence such boy to be detained in the Halifax Industrial School for any term not exceeding five years, and not less than two years.”

**35.** Section sixty-two of the said Act is hereby repealed and the following substituted therefor:—

“**62.** No such sentence shall be pronounced unless or until provision has been made by the municipality within which such conviction is had, out of its funds, for the support of boys so sentenced, at the rate of not less than sixty dollars per annum for each boy.”

*St. Patrick's Home, Halifax.*

**36.** Section sixty-five of the said Act is hereby repealed and the following substituted therefor:—

“**65.** Whenever any boy, who is a Roman Catholic and apparently under the age of sixteen years, is convicted in Nova Scotia of any offence for which by law he is liable to imprisonment, the judge, stipendiary magistrate, justice or justices by whom he is so convicted may sentence such boy to be detained in Saint Patrick's Home at Halifax for any term not exceeding five years, and not less than two years; but no such sentence shall be pronounced unless or until provision has been made by the municipality within which such conviction is had, out of its funds, for the support of boys so sentenced, at the rate of not less than sixty dollars per annum for each boy.”

**37.** Section sixty-six of the said Act is hereby repealed and the following substituted therefor:—

“**66.** The superintendent, or head of the said home, may at any time notify the mayor, warden or other chief magistrate of any municipality, that no prisoners, beyond those already under sentence in such home, will be received therein; and after such notification no such sentence shall be pronounced in such municipality until notice has been received by such mayor, warden or chief magistrate, from the said superintendent or head, that prisoners will again be received in the said home.”

**38.** The six preceding sections shall not, nor shall any of them, come into force until the same shall have been proclaimed by the Governor in Council.

**39.** The said Act is hereby further amended by adding at the end thereof the following sections:—

“ PART



## "PART VI.

## "MANITOBA.

" *Manitoba Reformatory for Boys.*

"78. If any boy, who, at the time of his trial, appears to the court to be under the age of sixteen years, is convicted of any offence for which a sentence of imprisonment for a period of three months or longer, but less than five years, may be imposed upon an adult convicted of the like offence, and the court before which such boy is convicted is satisfied that a due regard for the material and moral welfare of the boy manifestly requires that he should be committed to the Manitoba reformatory for boys, then such court may sentence the boy to be imprisoned in such reformatory for such term as the court thinks fit, not being greater than the term of imprisonment which could be imposed upon an adult for the like offence, and may further sentence such boy to be kept in such reformatory for an indefinite time after the expiration of such fixed term; Provided, that the whole period of confinement in such reformatory shall not exceed five years from the commencement of his imprisonment.

"79. If any boy, apparently under the age of sixteen years, is convicted of any offence, punishable by law on summary conviction, and thereupon is sentenced and committed to prison in any common gaol for a period of fourteen days at the least, any judge of any one of the superior courts, or any judge of a county court, in any case occurring within his county, may examine and inquire into the circumstances of such case and conviction, and when he considers the material and moral welfare of the boy requires such sentence, he may, as an additional sentence for such offence, sentence such boy to be sent either forthwith or at the expiration of his imprisonment in such gaol, to such reformatory, to be there detained for the purpose of his industrial and moral education for an indefinite period, not exceeding in the whole five years, from the commencement of his imprisonment in the common gaol.

"80. Every boy so sentenced shall be detained in such reformatory until the expiration of the fixed term, if any, of his sentence, unless sooner discharged by lawful authority, and thereafter shall, subject to the provisions hereof and to any regulations made as hereinafter provided, be detained in such reformatory for a period not to exceed five years from the commencement of his imprisonment, for the purpose of his industrial and moral education.

“**81.** A copy of the sentence of the court, duly certified by the proper officer, or the warrant or order of the judge or other magistrate by whom any boy is sentenced to confinement in such reformatory, shall be a sufficient authority to the sheriff, constable or other officer who is directed, verbally or otherwise, so to do, to convey such boy to the common gaol of the county where such sentence is pronounced, and for the gaoler of such gaol to receive and detain such boy, until some person, lawfully authorized, requires the delivery of such boy for removal to the reformatory.

“**82.** If any boy sentenced to be confined in such reformatory is in such a weak state of health that he cannot safely or conveniently be removed to the reformatory, he may be detained in the common gaol or other place of confinement in which he is, until he is sufficiently recovered to be safely and conveniently removed to the reformatory.

“**83.** No boy shall be discharged from such reformatory at the termination of his term of confinement, if then labouring under any contagious or infectious disease, or under any acute or dangerous illness, but he shall be permitted to remain in such reformatory until he recovers from such disease or illness: Provided that any boy remaining in such reformatory for any such cause shall be under the same discipline and control as if his term was still unexpired.

“**84.** Any sheriff or other person having the custody of any offender sentenced to imprisonment in the said reformatory, may detain the offender in the common gaol of the county or district in which such offender is sentenced, or other place of confinement in which such offender is, until some person lawfully authorized in that behalf requires such offender's delivery for the purpose of being conveyed to such reformatory.

“**85.** Whenever the time of any offender's sentence in such reformatory, under any law within the legislative authority of the Parliament of Canada, expires on a Sunday, such offender shall be discharged on the previous Saturday, unless such offender desires to remain until the Monday following.”

**40.** The provisions of this Act in respect to the Manitoba reformatory for boys shall not come into force until the same shall have been proclaimed by the Governor in Council.

#### EXTRA-JUDICIAL OATHS.

**41.** Section three of chapter one hundred and forty-one of the Revised Statutes of Canada, intituled *An Act respecting Extra-judicial Oaths*, is repealed and the following section is substituted therefor:—

“**3.**

“3. Any judge, justice of the peace, police or stipendiary magistrate, recorder, commissioner authorized to take affidavits to be used either in Provincial or Dominion courts, or any other functionary authorized by law to administer an oath in any matter, may receive the solemn declaration of any person voluntarily making the same before him, in the form in the schedule to this Act, in attestation of the execution of any writing, deed or instrument, or of the truth of any allegation of fact, or of any account rendered in writing.”

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most Excellent Majesty.







## 55-56 VICTORIA.

### CHAP. 26.

An Act to amend "The Canada Temperance Amendment Act, 1888."

[Assented to 12th April, 1892.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section eleven of chapter thirty-five of the Statutes of 1888, intituled *The Canada Temperance Amendment Act, 1888*, is hereby repealed and the following substituted therefor:—

Section 11 of c. 35 of 1888 repealed.

"11. Nothing in *The Canada Temperance Act* shall be held to interfere with the purchase or sale, by legally qualified physicians, chemists or druggists, of the following articles, that is to say:—

Sale of certain articles not prohibited.

"(a.) The officinal preparations of the authorized pharmacopœias when made of full medicinal strength and sold only for medicinal purposes ;

Officinal preparations.

"(b.) Any patent medicine, unless such patent medicine is known to the vendor to be capable of being used as a beverage, the sale of which is a violation of *The Canada Temperance Act* ;

Patent medicines.

"(c.) Eau de Cologne, bay rum, or other articles of perfumery, lotions, extracts, varnishes, tinctures or other pharmaceutical preparations containing alcohol, but not intended for use as beverages ;

Perfumery, &c.

"(d.) Methylated spirits for pharmaceutical, chemical or mechanical uses ;

Methylated spirits.

"(e.) Spirituous liquors or alcohol for exclusively medicinal purposes, or for *bonâ fide* use in some art, trade or manufacture ; provided that such spirituous liquor or alcohol, when sold for medicinal purposes, shall not exceed in quantity ten ounces at any one time, and shall be removed from the premises, and that the sale thereof be made on the certificate or prescription of a legally qualified physician, affirming that such liquor or alcohol has been prescribed for the person named therein, provided also, that when such sale is for its use in some art, trade or manufacture, such sale shall be made only

Alcohol for certain purposes and subject to certain regulations.

on a certificate signed by two justices of the peace of the good faith of the application, accompanied by the affirmation of the applicant that such liquor or alcohol is to be used only for the purposes set forth in the application ; provided further, that the vendor shall file all such certificates and prescriptions, and shall record every such sale in a book kept for that purpose, giving the name and address of the purchaser, the quantity of liquor or alcohol so sold, the name and address of the physician prescribing it, and of the person for whom it is prescribed, and of the justices whose names are appended to the certificate above referred to, and of the purpose for which the liquor or alcohol is prescribed ; and the said file and book shall be kept for inspection by the inspector for the county or district at all proper times ; and the vendor shall make an annual return of all such sales on the thirty-first day of December in every year to the collector of inland revenue within whose revenue division the county or district is situated."

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OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the Queen's  
most Excellent Majesty.

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TO THE

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# APPENDICES





# STATUTES

RELATING TO

## THE CRIMINAL LAW

PASSED IN THE YEAR 1893

56 VIC., CHAP. 31—ACT RESPECTING WITNESSES AND EVIDENCE.

56 VIC., CHAP. 32—AN ACT TO AMEND THE CRIMINAL CODE, 1892.

56 VIC., CHAP. 33—AN ACT RELATING TO THE CUSTODY OF JUVENILE  
OFFENDERS IN THE PROVINCE OF NEW BRUNSWICK.

56 VIC., CHAP. 37—AN ACT TO PREVENT THE MANUFACTURE AND  
SALE OF FILLED OR IMITATION CHEESE, AND TO PROVIDE FOR  
THE BRANDING OF DAIRY PRODUCTS.



OTTAWA

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ANNO DOMINI 1893





## 56 VICTORIA.

### CHAP. 31.

#### An Act respecting Witnesses and Evidence.

[Assented to 1st April, 1893.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The Canada Evidence Act*, Short title. 1893.

2. This Act shall apply to all criminal proceedings, and to Application all civil proceedings and other matters whatsoever respecting which the Parliament of Canada has jurisdiction in this behalf.

#### WITNESSES.

3. A person shall not be incompetent to give evidence by reason of interest or crime. No incompetency from crime or interest.

4. Every person charged with an offence, and the wife or husband, as the case may be, of the person so charged, shall be a competent witness, whether the person so charged is charged solely or jointly with any other person. Provided, however, that no husband shall be competent to disclose any communication made to him by his wife during their marriage, and no wife shall be competent to disclose any communication made to her by her husband during their marriage. Competency of accused and of wife and husband. Provision: as to communications during marriage.

2. The failure of the person charged, or of the wife or husband of such person, to testify, shall not be made the subject of comment by the judge or by counsel for the prosecution in addressing the jury.

5. No person shall be excused from answering any question upon the ground that the answer to such question may tend to incriminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any other person: Provided, however, that no evidence so given shall be used or receivable in evidence against such person in any

Incriminating answers.

criminal

criminal proceeding thereafter instituted against him other than a prosecution for perjury in giving such evidence.

Evidence of  
mute.

**6.** A witness who is unable to speak, may give his evidence in any other manner in which he can make it intelligible.

Judicial notice  
to be taken of  
Imperial sta-  
tutes, etc.

**7.** Judicial notice shall be taken of all Acts of the Imperial Parliament, of all ordinances made by the Governor in Council, or the Lieutenant-Governor in Council of any province or colony which, or some portion of which, now forms or hereafter may form part of Canada, and of all the Acts of the legislature of any such province or colony, whether enacted before or after the passing of *The British North America Act, 1867*.

Proof of  
proclamations  
etc., of Gov-  
ernor-General,  
etc.

**8.** Evidence of any proclamation, order, regulation or appointment, made or issued by the Governor-General or by the Governor in Council, or by or under the authority of any minister or head of any department of the Government of Canada, may be given in all or any of the modes hereinafter mentioned, that is to say :—

*Canada  
Gazette, etc.*

(a.) By the production of a copy of the *Canada Gazette* or a volume of the Acts of the Parliament of Canada purporting to contain a copy of such proclamation, order, regulation, or appointment or a notice thereof;

Copy printed  
by Queen's  
Printer.

(b.) By the production of a copy of such proclamation, order, regulation or appointment, purporting to be printed by the Queen's Printer for Canada; and—

Copy or ex-  
tract duly  
certified.

(c.) By the production, in the case of any proclamation, order, regulation or appointment made or issued by the Governor-General or by the Governor in Council, of a copy or extract purporting to be certified to be true by the clerk, or assistant or acting clerk of the Queen's Privy Council for Canada,—and in the case of any order, regulation or appointment made or issued by or under the authority of any such minister or head of a department, by the production of a copy or extract purporting to be certified to be true by the minister, or by his deputy or acting deputy, or by the secretary or acting secretary of the department over which he presides.

Proof of pro-  
clamations,  
etc., of Lieut-  
enant-Governor,  
etc.

**9.** Evidence of any proclamation, order, regulation or appointment made or issued by a Lieutenant-Governor or Lieutenant-Governor in Council of any province, or by or under the authority of any member of the Executive Council, being the head of any department of the Government of the province, may be given in all or any of the modes hereinafter mentioned, that is to say :—

Official Ga-  
zette, etc.

(a.) By the production of a copy of the Official Gazette for the province, purporting to contain a copy of such proclamation, order, regulation or appointment or a notice thereof;

Copy printed  
by Govern-  
ment Printer.

(b.) By the production of a copy of such proclamation, order, regulation or appointment, purporting to be printed by the Government or Queen's Printer for the province;



(c.) By the production of a copy or extract of such proclamation, order, regulation or appointment, purporting to be certified to be true by the clerk or assistant or acting clerk of the Executive Council, or by the head of any department of the Government of a province, or by his deputy or acting deputy, as the case may be.

Copy of extract duly certified.

**10.** Evidence of any proceeding or record whatsoever of, in, or before any court in the United Kingdom, or the Supreme or Exchequer Courts of Canada, or any court, or before any justice of the peace or any coroner, in any province of Canada, or any court in any British colony or possession, or any court of record of the United States of America, or of any state of the United States of America, or of any other foreign country, may be made in any action or proceeding by an exemplification or certified copy thereof, purporting to be under the seal of such court, or under the hand or seal of such justice or coroner, as the case may be, without any proof of the authenticity of such seal or of the signature of such justice or coroner, or other proof whatever; and if any such court, justice or coroner, has no seal, or so certifies, then by a copy purporting to be certified under the signature of a judge or presiding magistrate of such court or of such justice or coroner, without any proof of the authenticity of such signature or other proof whatsoever.

Proof of judicial proceedings, etc.

**11.** Imperial proclamations, Orders in Council, treaties, orders, warrants, licenses, certificates, rules, regulations, or other Imperial official records, acts or documents may be proved (a) in the same manner as the same may from time to time be provable in any court in England, or (b) by the production of a copy of the *Canada Gazette*, or a volume of the Acts of the Parliament of Canada purporting to contain a copy of the same or a notice thereof, or (c) by the production of a copy thereof, purporting to be printed by the Queen's Printer for Canada.

Proof of Imperial Acts, etc.

**12.** In every case in which the original record could be received in evidence, a copy of any official or public document of Canada or of any province, purporting to be certified under the hand of the proper officer or person in whose custody such official or public document is placed, or a copy of a document, by-law, rule, regulation or proceeding, or a copy of any entry in any register or other book of any municipal or other corporation, created by charter or statute of Canada or any province, purporting to be certified under the seal of the corporation, and the hand of the presiding officer, clerk or secretary thereof, shall be receivable in evidence without proof of the seal of the corporation, or of the signature or of the official character of the person or persons appearing to have signed the same, and without further proof thereof.

Proof of official or public documents.

Copies of public books or documents admissible in evidence.

**13.** Where a book or other document is of so public a nature as to be admissible in evidence on its mere production from the proper custody, and no other statute exists which renders its contents provable by means of a copy, a copy thereof or extract therefrom shall be admissible in evidence in any court of justice, or before a person having, by law or by consent of parties, authority to hear, receive and examine evidence, provided it is proved that it is a copy or extract purporting to be certified to be true by the officer to whose custody the original has been entrusted.

Proof of handwriting, etc., not requisite.

**14.** No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, regulation, appointment, book or other document ; and any such copy or extract may be in print or in writing, or partly in print, and partly in writing.

Order signed by Secretary of State.

**15.** Any order in writing, signed by the Secretary of State of Canada, and purporting to be written by command of the Governor-General, shall be received in evidence as the order of the Governor-General.

Copies of notices, etc., in *Canada Gazette*.

**16.** All copies of official and other notices, advertisements and documents printed in the *Canada Gazette* shall be *prima facie* evidence of the originals, and of the contents thereof.

Copies of entries in books of Government departments.

**17.** A copy of any entry in any book kept in any department of the Government of Canada, shall be received as evidence of such entry and of the matters, transactions and accounts therein recorded, if it is proved by the oath or affidavit of an officer of such department that such book was, at the time of the making of the entry, one of the ordinary books kept in such department, that the entry was made in the usual and ordinary course of business of such department, and that such copy is a true copy thereof.

Proof of notarial acts in Quebec.

**18.** Any document purporting to be a copy of a notarial act or instrument made, filed or enregistered in the province of Quebec, and to be certified by a notary or prothonotary to be a true copy of the original in his possession as such notary or prothonotary, shall be received in evidence in the place and stead of the original, and shall have the same force and effect as the original would have if produced and proved : Provided, that it may be proved in rebuttal that there is no such original, or that the copy is not a true copy of the original in some material particular, or that the original is not an instrument of such nature as may by the law of the province of Quebec be taken before a notary or be filed, enrolled or enregistered by a notary in the said province.

**19.** No copy of any book or other document as provided in sections ten, twelve, thirteen, fourteen, seventeen and eighteen of this Act, shall be received in evidence upon any trial unless the party intending to produce the same has before the trial given to the party against whom it is intended to be produced reasonable notice of such intention. The reasonableness of the notice shall be determined by the court or judge, but the notice shall not in any case be less than ten days.

Notice to be given to adverse party.

**20.** The provisions of this Act shall be deemed to be in addition to and not in derogation of any powers of proving documents given by any existing statute or existing at law.

Construction of this Act.

**21.** In all proceedings over which the Parliament of Canada has legislative authority, the laws of evidence in force in the province in which such proceedings are taken, including the laws of proof of service of any warrant, summons, subpoena or other document, shall, subject to the provisions of this and other Acts of the Parliament of Canada, apply to such proceedings.

Application of provincial laws of evidence.

#### OATHS AND AFFIRMATIONS.

**22.** Every court and judge, and every person having, by law or consent of parties, authority to hear and receive evidence, shall have power to administer an oath to every witness who is legally called to give evidence before that court, judge or person.

Who may administer oaths.

**23.** If a person called or desiring to give evidence, objects, on grounds of conscientious scruples, to take an oath or is objected to as incompetent to take an oath, such person may make the following affirmation:—

Affirmation of witness instead of oath.

“I solemnly affirm that the evidence to be given by me shall be the truth, the whole truth, and nothing but the truth.”

And upon the person making such solemn affirmation, his evidence shall be taken and have the same effect as if taken under oath.

**24.** If a person required or desiring to make an affidavit or deposition in a proceeding or on an occasion whereon or touching a matter respecting which an oath is required or is lawful, whether on taking office or otherwise, refuses or is unwilling to be sworn, on grounds of conscientious scruples, the court or judge, or other officer or person qualified to take affidavits or depositions, shall permit such person instead of being sworn, to make his solemn affirmation in the words following, viz.: “I, A. B., do solemnly affirm,” &c.; which solemn affirmation shall be of the same force and effect as if such person had taken an oath in the usual form.

Affirmation instead of oath.

## Perjury.

2. Any witness whose evidence is admitted or who makes an affirmation under this or the next preceding section shall be liable to indictment and punishment for perjury in all respects as if he had been sworn.

## Evidence of child.

25. In any legal proceeding where a child of tender years is tendered as a witness, and such child does not, in the opinion of the judge, justice or other presiding officer, understand the nature of an oath, the evidence of such child may be received, though not given upon oath, if, in the opinion of the judge, justice or other presiding officer, as the case may be, such child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

## Corroboration required.

2. But no case shall be decided upon such evidence alone, and such evidence must be corroborated by some other material evidence.

## STATUTORY DECLARATIONS.

## Solemn declaration.

26. Any judge, notary public, justice of the peace, police or stipendiary magistrate, recorder, mayor, commissioner authorized to take affidavits to be used either in the Provincial or Dominion courts, or any other functionary authorized by law to administer an oath in any matter, may receive the solemn declaration of any person voluntarily making the same before him, in the form in the schedule A to this Act, in attestation of the execution of any writing, deed or instrument, or of the truth of any fact, or of any account rendered in writing.

## Affidavits required by insurance companies.

27. Any affidavit, affirmation or declaration required by any insurance company authorized by law to do business in Canada, in regard to any loss of, or injury to, person, property or life insured or assured therein, may be taken before any commissioner or other person authorized to take affidavits, or before any justice of the peace, or before any notary public for any province of Canada; and such officer is hereby required to take such affidavit, affirmation or declaration.

## Repeal.

28. The Acts mentioned in schedule B to this Act are hereby repealed.

## Commencement of Act.

29. This Act shall come into force on the first day of July, one thousand eight hundred and ninety-three.

## SCHEDULE A.

I, A. B., do solemnly declare that (*state the fact or facts declared to*), and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of *The Canada Evidence Act, 1893.*

Declared before me

at

this

day of

A.D. 18 .



## SCHEDULE B.

Acts repealed.	Title.	Extent of Repeal.
R.S.C., c. 139. ....	An Act respecting Evidence. ....	The whole Act.
R.S.C., c. 141. ....	An Act respecting Extra-judicial Oaths. ....	The whole Act.

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## 56 VICTORIA.

### CHAP. 32.

#### An Act to amend the Criminal Code, 1892.

[Assented to 1st April, 1893.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. *The Criminal Code, 1892*, is hereby amended in the manner set forth in the following schedule :—

Criminal  
Code, 1892,  
amended.

#### SCHEDULE.

Section 3, para. <i>k</i> . . .	By striking out the word "such" before "thing" in the third line from the end of the paragraph.
Section 133. . . . .	By inserting before the word "offence" in the first line the word "indictable."
Section 181. . . . .	By substituting the word "or" for the word "and" in the second line.
Section 215. . . . .	By adding at the end thereof the words "unless the offence amounts to culpable homicide."
Section 254. . . . .	So that paragraph ( <i>a</i> ) shall begin with the word "who" in the second line instead of with the word "any" in the fourth line as at present.
Section 256. . . . .	By striking out ( <i>a</i> ) in the third line.
Section 260. . . . .	By substituting the word "ten" for the word "seven" in the second line, and the word "intent" for the word "attempt" in the third line.
Section 266. . . . .	By transferring the clause now forming subsection 3 to Part I (Preliminary), and making the same, section 4 A.
Page 165. . . . .	By adding the following section after section 507 :— "507 A. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding fifty dollars, who wilfully and without the permission of the Minister of Marine and Fisheries (the burden of proving which permission shall lie on the accused) removes any stone, wood, earth or other material forming a natural bar necessary to the existence of a public harbour, or forming a natural protection to such bar."
Section 539. . . . .	By inserting between the words "general" and "quarter" in the first line, the word "or."
Section 546. . . . .	By substituting the following section therefor :— "546. No person shall be prosecuted for any offence under section two hundred and fifty-six or two hundred and fifty-seven without the consent of the Minister of Marine and Fisheries."

Section 613.....	By inserting as paragraph (h) :— “(h) Or in cases where the consent of any person, official or authority is required before a prosecution can be instituted, that it does not state that such consent has been obtained.”
Section 634.....	By substituting for the word “appears” in the seventh line, the word “bears.”
Section 684.....	By substituting for the numeral “xii” in the eighth line, the numeral “xiii.”
Section 705.....	By substituting therefor the following section :— “705. In any criminal proceeding commenced or prosecuted for publishing any extract from, or abstract of, any paper containing defamatory matter and which has been published by or under the authority of the Senate, House of Commons or any Legislative Council, Legislative Assembly or House of Assembly, such paper may be given in evidence, and it may be shown that such extract or abstract was published in good faith and without ill-will to the person defamed, and if such is the opinion of the jury, a verdict of not guilty shall be entered for the defendant.”
Section 735.....	By striking out the words “writ of error or” in the seventh line.
Section 838.....	By substituting for the words “three hundred and eighteen or three hundred and sixty-one” in the fifth and sixth lines of subsection four, the words “three hundred and twenty or three hundred and sixty-three.”
Section 853.....	By inserting after the word “sixty” in the twelfth line, the word “three.”
Section 909.....	By inserting after the word “Peace” in the second line the word “recorder.”
Section 951.....	By substituting for the word “seven” in the third line the word “five.”
Section 958.....	By adding at the end thereof the following words :— “In which case the sentence may direct that in default of payment of his fine the person so convicted shall be imprisoned until such fine is paid or for a period not exceeding five years, to commence at the end of the term of imprisonment awarded by the sentence or forthwith as the case may require.”
Section 959.....	By striking out the words “under this part” in the second line and inserting after the word “offence” in the same line the words “triable under Part LVIII,” and by substituting for the words “of this part” in the first line of subsection three the words “of Part LVIII.”
Section 981.....	By striking out subsection two thereof, and substituting the following :— “2. The provisions of this Act which relate to procedure shall apply to all prosecutions commenced on or after the day upon which this Act comes into force, in relation to any offence whensoever committed. The proceedings in respect of any prosecution commenced before the said date otherwise than under the Summary Convictions Act, shall, up to the time of committal for trial, be continued as if this Act had not been passed, and after committal for trial shall be subject to all the provisions of this Act relating to procedure so far as the same are applicable thereto. The proceedings in respect of any prosecutions commenced before the said day, under the Summary Convictions Act, shall be continued and carried on as if this Act had not been passed.”
Schedule 2.....	By excepting from the repeal of R. S. C., chap. 157, sec. 8, subsec. 4 thereof, and from the repeal of 51 Vic., chap. 41, secs. 16 and 23 thereof.

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## 56 VICTORIA.

### CHAP. 33.

#### An Act relating to the custody of juvenile offenders in the Province of New Brunswick.

[Assented to 1st April, 1893]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. This Act shall apply only to the province of New Brunswick.

2. As soon as a proclamation has been issued by the Lieutenant-Governor of New Brunswick, declaring that an industrial home for boys has been established in the said province and made ready for the confinement of prisoners, the provisions of this Act shall go into force and apply to the said province.

3. If any boy, who, at the time of his trial, appears to the court to be under the age of sixteen years, is convicted of any offence for which a sentence of imprisonment for a period of three months or longer may be imposed upon an adult convicted of the like offence, and the court before whom such boy is convicted is satisfied that a due regard for the material and moral welfare of the boy manifestly requires that he should be committed to the said industrial home, then such court may sentence the boy to be imprisoned in such home for such term as the court thinks fit, not being greater than the term of imprisonment which could be imposed upon an adult for the like offence; and may further sentence such boy to be kept in such industrial home for an indefinite time after the expiration of such fixed term: Provided, that the whole period of confinement in such industrial home shall not exceed five years from the commencement of his imprisonment.

4. If any boy, apparently under the age of sixteen years, is convicted of an offence punishable by law on summary conviction, and thereupon is sentenced and committed to prison in any common jail for a period of fourteen days at least, any judge

Commencement of Act

What boys may be sentenced to industrial home

Term of confinement limited.

In certain cases boys summarily convicted may be sent to industrial home.

judge of the supreme court or of a county court, in any case occurring within the county or counties for which he is such judge, may examine and inquire into the circumstances of such case and conviction, and when he considers that the material and moral welfare of the boy requires such sentence, he may, as an additional sentence for such offence, sentence such boy to be sent, either forthwith, or at the expiration of his imprisonment in such jail, to such industrial home, to be there detained for the purpose of his industrial and moral education for an indefinite period, not exceeding in the whole five years from the commencement of his imprisonment in the common jail.

Detention for  
purposes of  
reform.

5. Every boy so sentenced shall be detained in such industrial home until the expiration of the fixed term, if any, of his sentence, unless sooner discharged by lawful authority, and thereafter shall, subject to the provisions hereof and to any regulations made as hereinafter provided, be detained in such industrial home for a period not to exceed five years from the commencement of his imprisonment, for the purpose of his industrial and moral education.

Visiting  
clergymen.

2. The clergymen of all religious denominations shall at all convenient hours and subject to the rules or regulations governing such industrial home be admitted therein for the purpose of giving spiritual advice and instruction to the inmates therein of their respective denominations.

Commitment  
of boy to jail  
until convey-  
ed to indus-  
trial home.

6. A copy of the sentence of the court, duly certified by the proper officer, or the warrant or order of the judge or magistrate by whom any boy is sentenced to confinement in such industrial home, shall be a sufficient authority to the sheriff, constable or other officer who is directed verbally or otherwise so to do, to convey such boy to the common jail of the county where such sentence is pronounced, and for the jailer of such jail to receive such boy and to detain him until there is presented to such jailer a warrant from the chairman of the governing board of the said industrial home, (which warrant such chairman is hereby authorized to issue under his official seal,) requiring the sheriff or a constable, or other officer; to deliver such boy to the superintendent of the said industrial home.

Conveyance of  
boy to indus-  
trial home;  
power of offi-  
cers.

7. The sheriff, constable or other officer, on the receipt by him of the warrant provided for in the last preceding section, may secure and convey such boy through any county or counties in the said province through which he has to pass in order to deliver such boy to the said superintendent; and until he has delivered such boy to the said superintendent, such sheriff, constable or other officer shall, in all counties of the said province through which it may be necessary to convey such boy, have the same authority and power over and with regard to such boy, and to command the assistance of any person in pre-

venting his escape, or in recapturing him in case of an escape, as the sheriff of the county in which he was convicted would himself have in conveying him from one part of that county to another.

8. If any boy sentenced to confinement in such industrial home is in such a weak state of health that he cannot safely or conveniently be removed to the said industrial home, he may be detained in the common jail or other place of confinement in which he is, until he is sufficiently recovered to be safely and conveniently removed to the industrial home.

*If boy is in bad health.*

9. No boy shall be discharged from such industrial home at the termination of his term of confinement, if then labouring under any contagious or infectious illness; but he shall be permitted to remain in such industrial home until he recovers from such disease or illness; provided that any boy remaining in such industrial home for any such cause shall be under the same discipline and control as if his term was still unexpired.

*Sick boy not to be discharged.*

*Proviso.*

10. Whenever the time of any offender's sentence in such industrial home, under any law within the legislative authority of the Parliament of Canada, expires on a Sunday, such offender shall be discharged on the previous Saturday, unless such offender desires to remain until the Monday following.

*If term expires on Sunday.*

11. If any respectable or trustworthy person is willing to undertake the charge of any boy committed to the said industrial home, when such boy is over the age of twelve years, as an apprentice to the trade or calling of such person, and such boy is confined to the said industrial home by virtue of a sentence or order pronounced under the authority of any Act of the Parliament of Canada, the superintendent of the said industrial home may, with the consent of the parent or guardian of the boy, and in the name of the governing board of the said industrial home, bind the said boy to such person for any term not to extend, without his consent, beyond a term of five years from the commencement of his imprisonment: and the said governing board shall thereupon order that such boy shall be discharged from the said industrial home on probation, to remain so discharged, provided his conduct during the residue of the term of five years, from the commencement of his imprisonment, continues good, and such boy shall be discharged accordingly: Provided, that any wages reserved in any indenture of apprenticeship made under this section shall be payable to such boy, or to some other person for his benefit.

*Apprenticeship of boy.*

*Discharge on probation in such case.*

*As to wages.*

12. No boy shall be discharged under the next preceding section until after the fixed term of his sentence has elapsed, unless by the authority of the Governor-General.

*Sanction of Governor-General.*

Regulations  
as to dis-  
charge.

**13.** The Governor in Council may make such regulations as he considers advisable for the discharge, after the expiration of the fixed time of sentence, of prisoners confined in such industrial home under any Act of the Parliament of Canada, and such discharge may be either absolute or upon probation, subject to such conditions as are imposed under the authority of the said regulations.

Recommit-  
ment for viola-  
tion of condi-  
tions of dis-  
charge.

**14.** The judge of any county court or police magistrate may, upon satisfactory proof that any boy who was sentenced under the provisions of any Act of the Parliament of Canada, and who has been discharged on probation, has violated the conditions of his discharge, order such boy to be recommitted to such industrial home, and thereupon such boy shall be detained therein under his original sentence as if he had never been discharged.

Interpreta-  
tion.

**15.** The word "warden" in section forty-nine of chapter one hundred and eighty-two of the Revised Statutes as therein applied to the reformatory prisons shall include the superintendent of the said industrial home.

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## 56 VICTORIA.

### CHAP. 37.

An Act to prevent the manufacture and sale of filled or imitation cheese, and to provide for the branding of dairy products.

[Assented to 1st April, 1893.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The Dairy Products Act, 1893*. Short title.

2. No person shall manufacture, or shall knowingly buy, sell, offer, expose or have in his possession for sale, any cheese manufactured from or by the use of skimmed milk, to which there has been added any fat which is foreign to such milk. Imitation cheese prohibited.

2. Every person who, by himself or by any other person to his knowledge, violates the provisions of this section, shall, for each offence, upon conviction thereof before any justice or justices of the peace, be liable to a fine not exceeding five hundred dollars and not less than twenty-five dollars, together with the costs of prosecution, and in default of payment of such fine and costs shall be liable to imprisonment, with or without hard labour, for a term not exceeding six months, unless such fine and the costs of enforcing it are sooner paid. Penalty.

3. No person shall sell, offer, expose, or have in his possession for sale, any cheese manufactured from or by the use of milk commonly known as "skimmed-milk," or milk from which cream has been removed, or milk to which skimmed milk has been added, unless the words "skim-milk cheese" are branded, marked or stamped in a legible manner upon the side of every cheese, and also upon the outside of every box or package which contains the same, in letters not less than three-quarters of an inch high and three-quarters of an inch wide. Skim-milk cheese to be marked.

2. No person, with intent to misrepresent or to defraud, shall remove, or in any way efface, obliterate or alter the words "skim-milk cheese" on such cheese, or on any box or package which contains the same. Mark not to be removed.

## Penalty.

3. Every person who, by himself or by any other person to his knowledge, violates any of the provisions of this section, shall, for each offence, upon conviction thereof before any justice or justices of the peace, be liable to a fine not exceeding five dollars and not less than two dollars for every such cheese, or box or package which is sold, offered, exposed or had in his possession for sale, together with the costs of prosecution, and in default of payment of such fine and costs shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months, unless such fine and the costs of enforcing it are sooner paid.

“Canadian”  
as a brand.

4. No person shall apply any brand, stamp or mark of the word “Canadian,” “Canadien” or “Canada” as a descriptive term, mark or brand, upon any cheese or upon any box or package which contains cheese or butter, unless such cheese and butter have been produced in Canada.

Sale of cheese  
so branded  
falsely.

2. No person shall knowingly sell, offer, expose or have in his possession for sale, any cheese or butter upon which or upon any box or package which contains the same, the word “Canadian,” “Canadien” or “Canada” is applied as a descriptive term, mark or brand, unless such cheese and butter have been produced in Canada.

## Penalty.

3. Every person who, by himself or by any other person to his knowledge, violates any of the provisions of this section, shall, for each offence, upon conviction thereof before any justice or justices of the peace, be liable to a fine not exceeding twenty dollars and not less than five dollars for every such cheese or box or package, which is sold, offered, exposed or had in his possession for sale, together with the costs of prosecution, and in default of payment of such fine and costs shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months, unless such fine and the costs of enforcing it are sooner paid.

Name of coun-  
try where pro-  
duced to be  
marked.

5. No person shall sell, offer, expose or have in his possession for sale, any cheese or butter which is produced in any foreign country, unless the name of the country where such cheese or butter was produced, is branded, stamped or marked in a legible manner upon the outside of every box or package which contains the same, in letters not less than three-eighths of an inch high and one-quarter of an inch wide.

## Penalty.

2. Every person who, by himself or by any other person to his knowledge, violates the provisions of this section shall, for each offence, upon conviction thereof before any justice or justices of the peace, be liable to a fine not exceeding five dollars and not less than two dollars for every such cheese, or box or package of butter, which is sold, offered, exposed or had in possession for sale, together with the costs of prosecution, and in default of payment of such fine and costs shall be liable to imprisonment, with or without hard labour, for a

term not exceeding three months, unless such fine and the costs of enforcing it are sooner paid.

6. The person on whose behalf any cheese or butter is manufactured, sold, offered, exposed or had in possession for sale, contrary to the provisions of the foregoing sections of this Act, shall be *primâ facie* liable for the violation of any of the provisions of this Act. Who shall be liable.

7. In any complaint, information or conviction under this Act, the matter complained of may be declared, and shall be held to have arisen, within the meaning of *The Summary Convictions Act*, at the place where the cheese or butter complained of was manufactured, sold, offered, exposed or had in possession for sale. Procedure.

8. No appeal shall lie from any conviction under this Act except to a superior, county, circuit or district court, or the court of the sessions of the peace, having jurisdiction where the conviction was had ; and such appeal shall be brought, notice of appeal in writing given, recognizance entered into or deposit made within ten days after the date of conviction ; and such appeal shall be heard, tried, adjudicated upon and decided, without the intervention of a jury, at such time and place as the court or judge hearing the same appoints, within thirty days from the date of conviction, unless the said court or judge extends the time for hearing and decision beyond such thirty days ; and in all other respects not provided for in this Act the procedure under *The Summary Convictions Act*, so far as applicable, shall apply. Appeal.

9. It shall be lawful for any person who may be charged with the enforcement of this Act to enter upon the premises of any person suspected of violating the provisions of this Act, and make an examination of cheese or butter ; and any such suspected person, who obstructs or refuses to permit the making of any such examination, shall, upon conviction thereof, be liable to a penalty not exceeding five hundred dollars and not less than twenty-five dollars, together with the costs of prosecution, and in default of payment of such penalty and costs, shall be liable to imprisonment, with or without hard labour, for a term not exceeding six months, unless the said penalty and the costs of enforcing the same are sooner paid. Right to make examination of cheese or butter.

10. Any pecuniary penalty imposed under this Act shall, when recovered, be payable, one-half to the informant or complainant, and the other half to Her Majesty. Application of penalties.

11. The Governor in Council may make such regulations as he considers necessary in order to secure the efficient operation of this Act ; and the regulations so made shall be in force Governor in Council may make regulations.

from the date of their publication in the *Canada Gazette*, or from such other date as is specified in the proclamation in that behalf.

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# STATUTES

RELATING TO

# THE CRIMINAL LAW

PASSED IN THE YEAR 1894

57-58 VIC., CHAP. 57—AN ACT FURTHER TO AMEND THE CRIMINAL CODE, 1892.

57-58 VIC., CHAP. 58—AN ACT RESPECTING ARREST, TRIAL AND IMPRISONMENT OF YOUTHFUL OFFENDERS.

57-58 VIC., CHAP. 59—AN ACT TO AMEND AN ACT RELATING TO THE CUSTODY OF JUVENILE OFFENDERS IN THE PROVINCE OF NEW BRUNSWICK.

57-58 VIC., CHAP. 60—AN ACT RESPECTING HOUSES OF REFUGE FOR FEMALES IN ONTARIO. .



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ANNO DOMINI 1894





## 57-58 VICTORIA.

### CHAP. 57.

An Act further to amend the Criminal Code, 1892.

[Assented to 23rd July, 1894.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. *The Criminal Code, 1892*, is hereby amended in the manner set forth in the following schedule:—

*Criminal Code, 1892, amended.*

#### SCHEDULE.

Section 65, paragraph (f). . . . .	By inserting after the word "countries" in the fifth line the word "or."
Section 197. . . . .	By substituting in the French version for the word "jeu" in the tenth line the word "paris."
Section 207. . . . .	By adding at the end thereof the following subsection:— "2. The expression 'public place' in this section includes any open place to which the public have or are permitted to have access and any place of public resort."
Section 208. . . . .	By striking out the following words in the second and third lines: "before two justices of the peace."
Section 263, paragraph (d). . . . .	By inserting after the word "seizure" in the fourth line the word "or."
Section 319, paragraph (b). . . . .	By adding at the end thereof the word "or."
Section 540. . . . .	By striking out the words "Part XI.—Escapes and Rescues; any of the sections in this part."
Section 575. . . . .	By inserting after the word "gaming" in the twenty-third line of subsection one the words "or betting."
do . . . . .	By inserting after the word "gaming" in the ninth line of subsection two the words "or betting."
do . . . . .	By inserting after the word "gaming-house" in the sixth line of subsection three the words "or any tables and instruments of betting so seized in any place used as a common betting-house."
Section 651. . . . .	By adding at the end thereof, as subsection 5, the following:— "5. Whenever, in the province of Quebec, it has been decided by competent authority that no term of the Court of Queen's Bench, holding criminal pleas, is to be held, at the appointed time, in any district in the said province within which a term of the said court should be then held, any person charged with an indictable offence whose trial should by law be held in the said district, may in the manner hereinbefore provided obtain an order that his trial be proceeded with in some other district within the said province, named by the court or judge; and all the provisions contained in this section shall apply to the case of a person so applying for and obtaining a change of venue as aforesaid."

SCHEDULE—*Concluded.*

Section 662 .....	By adding at the end thereof, as subsection 2, the following:— “2. Notwithstanding any law, usage or custom to the contrary, seven grand jurors, instead of twelve as heretofore, may find a true bill in any province where the panel of grand jurors is not more than thirteen: Provided, that this subsection shall not come into force until a day to be named by the Governor by his proclamation.”
Section 806 .....	By adding at the end thereof the following proviso:— “Provided, as regards the provinces of Ontario, Nova Scotia and New Brunswick, that the Governor in Council may from time to time direct that any fine or penalty which would otherwise under this section be payable to the county treasurer for county purposes, or any portion thereof, be paid to any municipal or local authority which wholly or in part bears the expenses of the administration of justice under the provisions of this part, or that the same be applied in any other manner deemed best adapted to secure its due administration of such provisions.”
Section 871 .....	By striking out “1.00” and substituting “1.50” in the first item of the tariff of constables’ fees, and  By striking out the item numbered 7 in the said tariff and substituting the following:— “6. Attending justices on trial, for each day necessarily employed in one or more cases, when engaged less than four hours, \$1.00. “7. Attending justices on trial, for each day necessarily employed in one or more cases, when engaged more than four hours, \$1.50.”
Section 872, subsection one, paragraph (a) .....	By striking out the following words in the fifth, sixth and seventh lines: “in the common jail or other prison of the territorial division for which the justice is then acting.”
Section 872, subsection one, paragraph (b) .....	By striking out the following words in the third and fourth lines: “in the common jail or other prison of the said territorial division.”
Section 884 .....	By inserting after the word “same” in the third line the words “whether such notice has been properly given or not.”
Section 926 .....	By adding at the end of subsection 2 thereof the following paragraphs:— “(d.) The cognizor shall be liable to coercive imprisonment for the payment of the judgment and costs. “(e.) When sufficient goods and chattels, lands or tenements cannot be found to satisfy the judgment against a cognizor and the same is certified in the return to the writ of execution or appears by the report of distribution, a warrant of commitment addressed to the sheriff of the district may issue upon the fiat or praecipe of the Attorney General, or of any person thereto authorized in writing by him, and such warrant shall be authority to the sheriff to take into custody the body of the cognizor so in default and to lodge him in the common jail of the district until satisfaction is made, or until the court which issued such warrant, upon cause shown as hereinafter mentioned, makes an order in the case and such order has been fully complied with. “(f.) Such warrant shall be returned by the sheriff on the day on which it is made returnable and the sheriff shall state in his return what has been done in execution thereof. “(g.) On petition of the cognizor, of which notice shall be given to the clerk of the Crown of the district, the court may inquire into the circumstances of the case and may in its discretion order the discharge of the amount for which he is liable or make such order with respect thereto and to his imprisonment as may appear just, and such order shall be carried out by the sheriff.”
do .....	By adding at the end of subsection 3 thereof the following paragraph:— “(b.) The cognizor for the recovery of the judgment in any such action shall be liable to coercive imprisonment in the same manner as a surety is in the case of judicial suretyship in civil matters.”
Schedule 2 .....	By striking out “36” and substituting “35,” in the fifth line, as the chapter of the Revised Statutes respecting the Postal Service.
Schedule 2 .....	By striking out the figure “6” in the fourth line from the end.





## 57-58 VICTORIA.

### CHAP. 58.

#### An Act respecting Arrest, Trial and Imprisonment of Youthful Offenders.

[Assented to 23rd July, 1894.]

**WHEREAS** it is desirable to make provision for the separation of youthful offenders from contact with older offenders and habitual criminals during their arrest and trial, and to make better provision than now exists for their commitment to places where they may be reformed and trained to useful lives, instead of their being imprisoned: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

**1.** Section five hundred and fifty of *The Criminal Code*, 1892, is hereby repealed and the following section substituted therefor: 1892, c. 29, s. 550 amended.

**“550.** The trials of young persons apparently under the age of sixteen years, shall take place without publicity and separately and apart from the trials of other accused persons, and at suitable times to be designated and appointed for that purpose.” Trial of young persons.

**2.** Young persons apparently under the age of sixteen years who are:— Imprisonment of persons under 16.

(a.) arrested upon any warrant; or

(b.) committed to custody at any stage of a preliminary enquiry into a charge for an indictable offence; or

(c.) committed to custody at any stage of a trial, either for an indictable offence or for an offence punishable on summary conviction; or

(d.) committed to custody after such trial, but before imprisonment under sentence,—

shall be kept in custody separate from older persons charged with criminal offences and separate from all persons undergoing sentences of imprisonment, and shall not be confined in the lock-ups or police stations with older persons charged with criminal offences or with ordinary criminals. To be separated from older offenders.

**3.** If any child, appearing to the court or justice before whom the child is tried to be under the age of fourteen years, In Ontario how child under 14 may be

dealt with  
when convict-  
ed.

is convicted in the province of Ontario of any offence against the law of Canada, whether indictable or punishable on summary conviction, such court or justice, instead of sentencing the child to any imprisonment provided by law in such case, may order that the child shall be committed to the charge of any home for destitute and neglected children, or to the charge of any children's aid society duly organized and approved by the Lieutenant-Governor of Ontario in Council, or to any certified industrial school.

In Ontario  
how boy un-  
der 12, or girl  
under 13, may  
be dealt with  
when charged.

4. Whenever in the province of Ontario, an information or complaint is laid or made against any boy under the age of twelve years, or girl under the age of thirteen years, for the commission of any offence against the law of Canada, whether indictable or punishable on summary conviction, the court or justice seized thereof shall give notice thereof in writing to the executive officer of the children's aid society, if there be one in the county, and shall allow him opportunity to investigate the charges made, and may also notify the parents of the child, or either of them, or other person apparently interested in the welfare of the child.

2. The court or justice may advise and counsel with the said officer and with the parents or such other person, and may consider any report made by the said officer upon the charges.

3. If, after such consultation and advice, and upon consideration of any report so made, and after hearing the matter of information or complaint, the court or justice is of opinion that the public interest and the welfare of the child will be best served thereby, then, instead of committing the child for trial, or sentencing the child, as the case may be, the court or justice may, by order :—

Apprentice-  
ship.

(a.) authorize the said officer to take the child and, under the provisions of the law of Ontario, bind the child out to some suitable person until the child has attained the age of 21 years, or any less age; or—

Fine.

(b.) place the child out in some approved foster-home; or,—  
(c.) impose a fine not exceeding ten dollars; or—

Suspension of  
sentence.

(d.) suspend sentence for a definite period or for an indefinite period; or

Commitment  
to certain in-  
stitutions.

(e.) if the child has been found guilty of the offence charged or is shown to be wilfully wayward and unmanageable, commit the child to a certified industrial school, or to the provincial reformatory for boys, or to the refuge for girls, as the case may be, and in such cases, the report of the said officer shall be attached to the warrant of commitment.

Effect of or-  
der. Child  
thereafter  
dealt with un-  
der law of On-  
tario.

5. Whenever an order has been made under either of the two sections next preceding, the child may thereafter be dealt with under the law of the province of Ontario, in the same manner, in all respects, as if such order had been lawfully made in respect of a proceeding instituted under authority of a statute of the province of Ontario.

6. No Protestant child dealt with under this Act, shall be committed to the care of any Roman Catholic children's aid society, or be placed in any Roman Catholic family as its foster-home; nor shall any Roman Catholic child dealt with under this Act, be committed to the care of any Protestant children's aid society, or be placed in any Protestant family as its foster-home. But this section shall not apply to the care of children in a temporary home or shelter, established under the Act of Ontario, fifty-six Victoria, chapter forty-five, intituled *An Act for the Prevention of Cruelty to, and better Protection of, Children*, in a municipality in which there is but one children's aid society.

Religion of  
child to be re-  
spected.

Proviso as to  
temporary  
care in certain  
cases

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## 57-58 VICTORIA.

### CHAP. 59.

An Act to amend an Act relating to the custody of juvenile offenders in the province of New Brunswick.

[Assented to 23rd July, 1894.]

**H**ER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

§. Chapter thirty-three of the Statutes of 1893, intituled *An Act relating to the custody of juvenile offenders in the province of New Brunswick*, is hereby amended by adding to it the following section :—

“16. The Governor General by warrant under his hand may at any time in his discretion, on the application of the Attorney General of the province of New Brunswick, cause any boy who is imprisoned in the Dorchester Penitentiary, or in any jail in that province, for an offence within the law of Canada, and who is certified by any judge of the Supreme Court or of any County Court to have been, in the opinion of such judge, at the time of his trial under the age of fifteen years, to be transferred to the Boys' Industrial Home in the province, for the remainder of his term of imprisonment and for such further term in addition thereto as the Governor General, on the report and recommendation of such judge, deems expedient; provided that the whole term of imprisonment shall not exceed five years from the commencement of the imprisonment in such penitentiary or jail.”

1893, c. 33 amended.

Governor General may cause transfer of boys from penitentiary or jail to industrial home.

Provide, that term of imprisonment.

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## 57-58 VICTORIA.

### CHAP. 60.

#### An Act respecting Houses of Refuge for Females in Ontario.

[Assented to 23rd July, 1894.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. "House of refuge" in this Act shall mean any institution for the care of young or adult females, which is subject to the inspection of the inspector of prisons and asylums of the province of Ontario. "Superintendent," shall mean the matron, superior, or other person in charge of such institution.

Interpretation  
"House of  
refuge."

"Superin-  
tendent."

2. All females sentenced to, or confined from time to time in any of the common jails of the province of Ontario, under sentence of imprisonment by a police magistrate of any city, for any offence against any Act of the Parliament of Canada, may be committed to any house of refuge situate in the county or union of counties, city or town in which such females respectively were convicted, or may be transferred, by order of such police magistrate, from such common jail to such house of refuge, to be there respectively imprisoned for the whole or the unexpired portions of the terms of imprisonment to which such females were originally sentenced or committed respectively to such common jails; and such females shall thereupon be imprisoned in such houses of refuge for the whole or the residue of their respective terms of imprisonment, and shall be subject to all the rules and regulations of such houses of refuge respectively; provided that no Protestant female shall be committed or transferred under this Act to a Roman Catholic institution; and no Roman Catholic shall be committed or transferred to a Protestant institution.

Committal of  
females to  
house of  
refuge.

3. The next preceding section shall be held to extend to any case where imprisonment is imposed in whole or in part in default of the payment of a fine or penalty in money, notwithstanding the offender is entitled to be discharged upon payment of such fine or penalty, and if the fine or penalty is

Application  
of preceding  
section.

paid after the committal or removal of the offender to any such house of refuge, and whilst such offender is confined therein, the same shall be paid to the superintendent of the house of refuge to defray the expense of removal and otherwise, for the use of the said house of refuge, but nothing herein contained shall affect the right of any private person to any part thereof.

Transfer from  
houses of re-  
fuge to jails.

4. The police magistrate may from time to time direct the removal of any such offender from any house of refuge to the common jail, to which such offender had been originally sentenced, or from which she had been before removed, or to any other place of imprisonment to which the offender may be removed according to law.

Copy of sen-  
tence suffi-  
cient warrant.

5. Any officer to whom the magistrates' warrant in that behalf is directed may convey to the house of refuge for females named in his warrant in that behalf, any offender liable to be imprisoned therein, and deliver her to the superintendent without any further warrant than a copy of the sentence or warrant of commitment against such offender from the proper court in that behalf, certified under the hand of the jailer to whom the same is directed.

Superinten-  
dent or jailer  
to deliver up  
prisoners.

6. The superintendent or other head of the house of refuge, or the keeper of any common jail having the custody of any offender ordered to be removed from a house of refuge to a common jail or other place of imprisonment, or from the common jail to a house of refuge, shall, when required so to do, deliver up to the constable or other officer or person who produces the said warrant, the offender named therein, together with a copy certified by him or her, of the warrant of commitment of the offender, or of the copy thereof as given him or her on the reception of the offender into his or her custody.

Powers of  
officer in  
charge of  
prisoner.

7. The officer or other person employed to convey such offender to the house of refuge or back to a common jail or any other place of imprisonment as by law provided, may secure and convey her through any county or district through which he may have to pass; and until the offender shall have been delivered to the superintendent, superior or other head of the house of refuge or the keeper of such common jail or other place of imprisonment, the said officer or other person shall have in every part of the province through which it may be necessary to convey the offender, the same power and authority over and with regard to the offender, and to command the assistance of any person to prevent her escape, and in recapturing her in case of an escape, as the sheriff of the county in which she was convicted would himself have in conveying her from one part to another of that county.



**8.** The said officer or other person shall give a receipt to the said superintendent or jailer for the offender, and shall thereupon, with all convenient speed, convey and deliver up the offender with the said certified copy of the warrant into the custody of the superior of the house of refuge or keeper of the jail or other place of imprisonment mentioned in the warrant, who shall give a receipt in writing for every offender so received into his or her custody, to such officer or other person as his or her discharge; and the offender shall be kept in custody in the house of refuge or jail or other place of imprisonment to which she may have been so removed, until the termination of her sentence or until her pardon or release or discharge by law, unless she is in the meantime again removed under competent authority.

Officer to give  
or take receipt  
for prisoner.

**9.** Any offender who escapes from any such house of refuge before her sentence therein has expired, may be again arrested without any warrant by any sheriff, sheriff's bailiff or constable of the county, city, town or village in which she may be found and conveyed to the house of refuge for females from which she escaped, or to the county jail of the county from which she was first removed, and she shall there be confined in such house of refuge or jail for the balance of the period of her sentence which remained unexpired at the time of her escape.

Recapture of  
escaped  
prisoner.

**10.** Whenever the time of the sentence of any prisoner removed to a house of refuge expires on a Sunday she shall be discharged on the previous Saturday, unless she desires to remain until the following Monday.

Prisoners not  
to be dis-  
charged on  
Sunday.

**11.** No prisoner shall be discharged from any house of refuge for females at the termination of her sentence if then labouring under any contagious or infectious disease or under any acute or dangerous illness, but she shall be permitted to remain in the house of refuge until she recovers from the disease or illness, and any prisoner remaining from any such cause in the house of refuge shall be under the same discipline or control as if her sentence were still unexpired.

Prisoners not  
to be dis-  
charged if  
labouring  
under certain  
diseases.

**12.** No prisoner shall be committed to any house of refuge without the consent of the superintendent, superior or other head thereof in that behalf.

Persons not  
to be com-  
mitted with-  
out consent of  
superinten-  
dent.



# STATUTES

RELATING TO

# THE CRIMINAL LAW

PASSED IN THE YEAR 1895

58-59 VIC., CAP. 40—AN ACT FURTHER TO AMEND THE CRIMINAL  
CODE, 1892.

58-59 VIC., CAP. 43—AN ACT TO AMEND THE ACT RESPECTING CER-  
TAIN FEMALE OFFENDERS IN THE PROVINCE OF NOVA SCOTIA.



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ANNO DOMINI 1895







## 58-59 VICTORIA.

### CHAP. 40.

An Act further to amend the Criminal Code, 1892.

[Assented to 22nd July, 1895.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. *The Criminal Code, 1892, is hereby amended in the manner set forth in the following schedule :—*

#### SCHEDULE

Section 2.—By repealing sub-paragraph (i.) of paragraph (c.) and substituting the following therefor :—

“(i) In the province of Ontario, any Divisional Court of the High Court of Justice.”

And by repealing the whole section in the French version, and re-enacting it so that the paragraphs will correspond, as to their order and their lettering, with the English version.

Section 196.—By adding after the word “chance” in the third line of paragraph (a.) thereof the following words :—“or at any mixed game of chance and skill ;”

And by adding thereto the following subsection :—

“2. Any such house, room or place shall be a common gaming-house although part only of such game is played there and any other part thereof is played at some other place, either in Canada or elsewhere, and although the stake played for, or any money, valuables, or property depending on such game, is in some other place, either in Canada or elsewhere.”

Section 197.—By adding at the end thereof the following paragraphs :—

“Or (c.) opened, or kept for the purpose of recording or registering bets upon any contingency or event, horse race or other race, fight, game or sport, or for the purpose of receiving money or other things of value to be transmitted for the purpose of being wagered upon any such contingency or event, horse race, or other race, fight, sport or game, whether any such bet is recorded or registered there, or any money or other thing of value is there received to be so transmitted or not ;

“Or (*d.*) opened, kept or used for the purpose of facilitating, or encouraging or assisting in, the making of bets upon any contingency or event, horse race or other race, fight, game or sport, by announcing the betting upon, or announcing or displaying the results of, horse races or other races, fights, games or sports, or in any other manner, whether such contingency or event, horse race or other race, fight, game or sport, occurs or takes place in Canada or elsewhere.”

Section 205.—By adding at the end of subsection one thereof the following paragraph :—

“Or (*c.*) conducts or manages any scheme, contrivance or operation of any kind for the purpose of determining who, or the holders of what lots, tickets, numbers, or chances, are the winners of any property so proposed to be advanced, loaned, given, sold, or disposed of.”

And by adding the following words at the end of subsection five thereof :—

“and the conducting or managing of any such scheme, contrivance or operation for determining the winners in any such lottery.”

Section 512.—By repealing paragraph (*a.*) thereof and substituting the following therefor :—

“(a.) wantonly, cruelly or unnecessarily beats, binds, ill-treats, abuses, overdrives or tortures any cattle, poultry, dog, domestic animal or bird, or any wild animal or bird in captivity ; or”

Section 552.—By striking out the paragraph beginning with the forty-eighth and ending with the fiftieth line and substituting the following therefor :—

“Part XXVI.—Sections three hundred and nineteen, theft by clerks and servants, &c. ; three hundred and twenty, theft by agents, &c. ; three hundred and twenty-one, public servant refusing to deliver up chattels, &c. ; three hundred and twenty-two, theft by tenants and lodgers ; three hundred and twenty-three, theft of testamentary instruments ; three hundred and twenty-four, theft of documents of title ; three hundred and twenty-five, theft of judicial or official documents ; three hundred and twenty-six, theft of postal matter ; three hundred and twenty-seven, theft of postal matter ; three hundred and twenty-eight, theft of postal matter ; three hundred and twenty-nine, theft of election documents ; three hundred and thirty, theft of railway tickets ; three hundred and thirty-one, theft of cattle ; three hundred and thirty-four, theft of oysters ; three hundred and thirty-five, theft of things fixed to buildings or land ; three hundred and forty-four, stealing from the person ; three hundred and forty-five, stealing in dwelling houses ; three hundred and forty-six, stealing by picklocks, &c. ; three hundred and forty-seven, stealing in manufactories ; three hundred and forty-nine, stealing from ships, &c. ; three hundred and fifty, stealing from wreck ; three hundred and

fifty-one, stealing on railways; three hundred and fifty-five, bringing stolen property into Canada.”

And by striking out the first three lines of subsection two thereof and substituting the following therefor:—

“2. A peace officer may arrest, without warrant, any one who has committed or is found committing any of the offences mentioned in the said sections or in the following sections, that is to say:”

And by repealing subsection three thereof and substituting the following therefor:—

“3. A peace officer may arrest, without warrant, any one whom he finds committing any criminal offence, and any person may arrest, without warrant, any one whom he finds committing any criminal offence by night.”

And by repealing subsection five thereof and substituting the following therefor:—

“5. The owner of any property on or with respect to which any person is found committing any offence, or any person authorized by such owner, may arrest, without warrant, the person so found, who shall forthwith be taken before a justice of the peace to be dealt with according to law.”

Section 557A.—By inserting immediately after section 557 the following section:—

“557A. In the district of Montreal the clerk of the peace or deputy clerk of the peace shall have all the powers of a justice of the peace under parts XLIV. and XLV.”

Section 575.—By repealing it, as it is amended by chapter fifty-seven of the Statutes of 1894, and substituting the following therefor:—

“575. If the chief constable or deputy chief constable of any city, town, incorporated village or other municipality or district, organized or unorganized, or place, or other officer authorized to act in his absence, reports in writing to any of the commissioners of police or to the mayor or chief magistrate or to the police magistrate of such city, town, incorporated village or other municipality, district or place, or to any police magistrate having jurisdiction there, or if there be no such mayor, or chief magistrate, or police magistrate, to any justice of the peace having such jurisdiction, that there are good grounds for believing, and that he does believe that any house, room or place within the said city or town, incorporated village or other municipality, district or place is kept or used as a common gaming or betting house as defined in part XIV., sections one hundred and ninety-six and one hundred and ninety-seven, or is used for the purpose of carrying on a lottery, or for the sale of lottery tickets, or for the purpose of conducting or carrying on any scheme, contrivance or operation for the purpose of determining the winners in any lottery contrary to the provisions of part XIV., section two hundred and five, whether admission thereto is limited to those possessed of entrance keys or otherwise, the said commissioners or commissioner,

missioner, mayor, chief magistrate, police magistrate or justice of the peace, may, by order in writing, authorize the chief constable, deputy chief constable, or other officer as aforesaid, to enter any such house, room or place, with such constables as are deemed requisite by him, and if necessary to use force for the purpose of effecting such entry, whether by breaking open doors or otherwise, and to take into custody all persons who are found therein, and to seize, as the case may be (1) all tables and instruments of gaming or betting, and all moneys and securities for money, and (2) all instruments or devices for the carrying on of such lottery, or of such scheme, contrivance or operation, and all lottery tickets, found in such house or premises, and to bring the same before the person issuing such order or some other justice, to be by him dealt with according to law.

“2. The chief constable, deputy chief constable or other officer making such entry, in obedience to any such order, may, with the assistance of one or more constables, search all parts of the house, room or place which he has so entered, where he suspects that tables or instruments of gaming or betting, or any instruments or devices for the carrying on of such lottery or of such scheme, contrivance or operation, or any lottery tickets, are concealed, and all persons whom he finds in such house or premises, and seize all tables and instruments of gaming or betting, or any such instruments or devices or lottery tickets as aforesaid, which he so finds.

“3. The justice before whom any person is taken by virtue of an order or warrant under this section, may direct any cards, dice, balls, counters, tables or other instruments of gaming, or used in playing any game, or of betting, or any such instruments or devices for the carrying on of a lottery, or for the conducting or carrying on of any such scheme, contrivance or operation, or any such lottery tickets, so seized as aforesaid, to be forthwith destroyed, and any money or securities so seized shall be forfeited to the Crown for the public uses of Canada.

“4. The expression ‘chief constable’ includes the chief of police, city marshal or other head of the police force of any such city, town, incorporated village or other municipality, district or place, and in the province of Quebec, the high constable of the district, and means any constable of a municipality, district or place which has no chief constable or deputy chief constable.

“5. The expression ‘deputy chief constable’ includes deputy chief of police, deputy or assistant marshal or other deputy head of the police force of any such city, town, incorporated village, or other municipality, district or place, and in the province of Quebec the deputy high constable of the district; and the expression ‘police magistrate’ includes stipendiary and district magistrates.”

Section **673**.—By repealing it and substituting the following therefor :—



“**673.** The trial shall proceed continuously subject to the power of the court to adjourn it.

“2. The court may adjourn the trial from day to day, and if in its opinion the ends of justice so require, to any other day in the same sittings.

“3. Upon every adjournment of a trial under this section, or under any other section of this Act, the court may, if it thinks fit, direct that during the adjournment the jury shall be kept together, and proper provision made for preventing the jury from holding communication with any one on the subject of the trial. Such direction shall be given in all cases in which the accused may upon conviction be sentenced to death. In other cases, if no such direction is given, the jury shall be permitted to separate.

“4. No formal adjournment of the court shall hereafter be required, and no entry thereof in the Crown book shall be necessary.”

Section **683.**—By repealing subsection two thereof and substituting the following therefor :—

“2. Until otherwise provided by rules of court, the practice and procedure in connection with the appointment of commissioners under this section, the taking of depositions by such commissioners, and the certifying and return thereof, and the use of such depositions as evidence, shall be as nearly as practicable the same as those which prevail in the respective courts in connection with like matters in civil causes.”

And by adding thereto the following subsection :—

“3. The depositions taken by such commissioners may be used as evidence as well before the grand jury as at the trial.”

Section **763.**—By repealing sub-paragraph (i.) of paragraph (a.) thereof and substituting the following therefor :—

“(i.) In the province of Ontario any judge of a county or district court, junior judge or deputy judge authorized to act as chairman of the general sessions of the peace.”

Section **782.**—By adding the following sub-paragraph after sub-paragraph (iv.) of paragraph (a.):

“(v.) In all the provinces, where the defendant is charged with any of the offences mentioned in paragraphs (a.) and (f.) of section 783, any two justices of the peace sitting together; provided that when any offence is tried by virtue of this sub-paragraph an appeal shall lie from a conviction in the same manner as from summary convictions under part LVIII., and that section 879 and the following sections relating to appeals from such summary convictions shall apply to such appeal.”

Section **784.**—By repealing subsection three thereof and substituting the following therefor :—

“3. The jurisdiction of the magistrate in the provinces of Prince Edward Island and British Columbia, and in the district of Keewatin, under this part, is absolute, without the consent of the person charged.”

Section 878.—By repealing subsection two thereof and substituting the following subsections therefor:—

“2. Such certificate shall be in the form MMM in schedule one to this Act.

“3. The proper officer to whom the recognizance and certificate of default are to be transmitted in the province of Ontario, shall be the clerk of the peace of the county for which such justice is acting; and the Court of General Sessions of the Peace for such county shall, at its then next sitting, order all such recognizances to be forfeited and estreated, and the same shall be enforced and collected in the same manner and subject to the same conditions as any fines, forfeitures or amercements imposed by or forfeited before such court. In the province of British Columbia, such proper officer shall be the clerk of the County Court having jurisdiction at the place where such recognizance is taken, and such recognizance shall be enforced and collected in the same manner and subject to the same conditions as any fines, forfeitures or amercements imposed by or forfeited before such County Court: and in the other provinces of Canada such proper officer shall be the officer to whom like recognizances have been heretofore accustomed to be transmitted under the law in force before the passing of this Act; and such recognizances shall be enforced and collected in the same manner as like recognizances have heretofore been enforced and collected.”

Form K in Schedule One.—By striking out the words “upon (oath)” in the ninth line; and by inserting after the word “prosecution” in the tenth line, the words “or for the accused.”

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## 58-59 VICTORIA.

### CHAP. 43.

An Act to amend the Act respecting certain Female Offenders in the Province of Nova Scotia.

[Assented to 22nd July, 1895.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. The following subsection is added to the first section of chapter fifty-five of the Statutes of 1891, intituled *An Act respecting certain Female Offenders in the Province of Nova Scotia* :—

“ 2. The judge, stipendiary magistrate or magistrate before whom such female person is convicted may, in his discretion, instead of sentencing her as in this section before provided, sentence her to an extended or substituted imprisonment in the said reformatory, subject to the following conditions :—

“(a.) If such female person is under the age of twenty-one years, such extended imprisonment may be until she attains the age of twenty-one years or for any shorter or longer term not less than two nor more in the whole than four years.

“(b.) If such female person is of the age of twenty-one years or upwards, such extended imprisonment may be for any term not less than one year nor more than two years.”

2. The provisions of section twelve of the Act hereby amended shall, *mutatis mutandis*, apply to such extended imprisonment of such female person.

3. So much of the Act hereby amended or of any other Repeal Act as is inconsistent with this Act is repealed.

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Canada. Statutes. Criminal Code  
The criminal code, 1892 ... [and Appendices:  
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